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Nos. 83-812 and 83-929

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

WALLACE, *et al.*,

Appellants

v.

JAFFREE, *et al.*,

Appellees

and

SMITH, *et al.*,

Appellants

v.

JAFFREE, *et al.*,

Appellees

Appeal from the United States Court of Appeals for the Eleventh Circuit

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APPENDIX TO BRIEF OF APPELLANT, GEORGE C. WALLACE

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APPENDIX A

Committee Report to Congress April 1785

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[Report of the committee consisting of Mr. Pierse Long, Mr. Rufus King, Mr. David Howell, Mr. William Samuel Johnson, Mr. R. R. Livingston, Mr. Archibald Stewart, Mr. Joseph Gardner, Mr. John Henry, Mr. William Grayson, Mr. Hugh Williamson, Mr. John Bull and Mr. William Houstoun.]

An Ordnance [sic] for ascertaining the mode of disposing of lands in the Western territory.

Be it ordained by the United States in Congress assembled that the territory ceded by individual States to the United States which has been purchas'd of the Indian inhabitants, shall be dispos'd of in the following manner:

Thirteen or more surveyors shall be appointed by *the Geographer of the United States who shall be approved of by Congress and who shall enter into bond with good security, the sufficiency of which shall be determined by the said Geographer conditioned for the faithful discharge of their duty respectively* [Congress who shall take an Oath for the faithful Discharge of their Duty to be administered by the Geographer who is hereby impowered to administer the same] and if any surveyor being [appointed *shall be unable to act from any cause whatever* as afsd shall decline or become incapable to discharge his Duty] the Geographer shall appoint another in his place.

The Geographer (under whose direction the said surveyors shall act) shall form such regulations for their conduct as he shall deem necessary, and shall have authority to suspend them *from Office until Congress shall*

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* Words struck through in original document have been reprinted in italics.

be informed thereof to direct the proper inquirys [for misconduct in Office and shall make Report of the same to Congress.]

The Survivors shall proceed to divide the said territorys into townships of *seven* miles square, by lines running due North and South and others crossing these at right angles, unless where the boundaries of the late Indian purchase may render the same impracticable, and then departing from this *instruction* Rule no farther than such particular circumstances may require.

The Geographer shall be allowed dollars p annum for his salary.

There shall be allowed for the surveying of every township dollars, including the wages of chain carriers, markers and every other expense and so in proportion for a part of a township.

The first Line running North and South as aforesaid shall begin on the Ohio, at a point that shall be found to be due North from the termination of a line which has been run as the Southern boundary of the State of Pennsylvania, and the first line running East and West shall begin at the same point, and shall extend throughout the whole territory. The Geographer shall designate the Townships or parts of townships by numbers progressively from South to North, always beginning each Range with No. 1 [and the Ranges shall be distinguished by their progressive numbers to the Westward, the first Range extending from the Ohio to the Lake Erie, being marked No. 1.]

The lines shall be measured with a chain, shall be plainly marked by chops on the trees and exactly described on a plat whereon shall be noted at their proper distance all water courses, mountains and other remarkable and permanent things over or near which such lines shall pass.

The Plats of the districts respectively shall be subdivided [as the Case may require] into sections of one mile square, or 640 acres, in the same direction as the external lines, and numbered from one to 49, always beginning the succeeding range of sections with the number next to that with which the preceeding one concluded and where from the causes before mentioned only a part of a township shall be surveyed, the sections protracted thereon shall bear the same numbers as if the Township had been intire [and those Sections shall be subdivided into Lots of 320 as.]

The Geographer and surveyors *under his direction* shall pay the utmost attention to the variation of the magnetic needle, and shall run and note all lines by the true meridian, certifying with every platt what was the variation at the times of running the lines thereon noted.

As soon as *four* ranges of townships and parts of townships in the direction from South to North shall have been survey'd, the Geographer shall transmit plats thereof to the Commrs. of the Treasury, who shall record the same with the report in well bound books to be kept for that purpose. The Secretary at War shall take by lot therefrom a number of townships and parts of townships equal to one part of the whole for the use of the late Continental Army, to be applied in manner herein after directed. The Commrs. of the Treasury shall then cause the remaining numbers to be *drawn* for in the name of the thirteen states, according to *such proportions as nearly as may be as are alloted in rating the Quotas of the different States* [the Quotas in the last preceding Requisition on the States,] provided if more land than its Proportion is allotted for sale in any *one individual state than a due proportion* [State] at any *one* division a deduction be made therefor at the *one* next *succeeding* [*division*].

The Commrs shall transmit duplicates of the said original plats so *drawn* for, to the loan Officer of the

individual States respectively, who after giving proper notice shall proceed to sell the same at public vendue, excepting only such townships and parts of townships as may be herein after particularly reserved provided that none of the lands within the said territory be sold under the price of one dollar the acre to be paid in specie or loan Office certificates reduced to specie value by the scale of depreciation or certificates of liquidated debts of the United States, besides the expence of the survey and other proceedings thereon, which are hereby rated at *forty* dollars the township in specie or certificates as aforesaid and so in the same proportion for a part thereof.

When any Township or part of a township shall have been sold as aforesaid and the money or Certificates received therefor, the loan Officer shall deliver a deed in the following terms:

To all whom these presents shall come greeting:

Know ye that for *a valuable consideration* [the consideration of] the United States of America have granted unto C. D. the Township or part of Township numbered to hold to the said C. D. his heirs and assigns for ever, subject nevertheless to such reservations as are contained in an ordinance bearing date the day of in the year

In witness whereof the said A. B. loan Officer of the said State hath hereunto set his hand and affix'd the seal of his office this day of in the year and of the independance of the United States the which deeds shall be recorded in proper books, & shall be certified to have been recorded previous to *the delivery* its being delivered to the purchasers.

The loan Officers respectively shall make returns to the Commrs. of the Treasury every *three* months of the sales of the townships or parts of townships committed to their charge with the persons' names to whom sold; and shall transmit all sums of money or certificates as

aforesaid received for the same, which shall be duly entered in the books of the treasury.

If any township or part of township remains unsold for six months after the platt shall have been receiv'd by the loan Officer, the same shall be return'd to the Comm. of the Treasy and shall be sold in such manner, as Congress may hereafter direct *in which case the said Commrs. shall grant deeds for the same.*

There shall be reserv'd for the United States out of every Township the four corner sections being numbered, and out of every part of a township so many sections of the same numbers as shall be found thereon.

Also one part of all gold, silver, lead, Copper and Coal mines, and all salt licks and salt springs and a square of one hundred acres of land, of which the said salt lick or salt spring shall be the centre for the purpose of special sales at such times and places as Congress may hereafter direct.

There shall be reserv'd the Central section of every township for the maintenance of public schools and the *lot* [Section] immediately adjoining the same to the Northward, for the support of religion, the *revenues* [Profits] arising therefrom in both instances to be applied for ever according to the will of the majority of male residents of full age within the same. And whereas Congress by their resolutions of Sept. 16 and 18, in the year 1776, and the 12 of Aug., 1780, stipulated grants of land to the Officers and soldiers who had engaged or should engage in the service of the United States during the war and continue therein to the close of the same or until discharg'd by Congress and to the representatives of such Officers and soldiers as should be slain by the Enemy, in the following proportions to wit:

To a Majr. Genl. 1,100 acres; to a Brigr. 850. to a Colonel 450, to a Major 400—to a Capt. 300. to a Lieut. 200 to an Ensign 150—and to a non commd. Soldier 100.

for complying therefore with such *stipulation* [engagements] be it ordained that the Secretary at War from the returns in his Office or such other sufft evidence as the nature of the case may *require* [admit] determine who are the objects of the above resolutions and the quantity of land to which such persons or their representatives are respectively intituled and shall cause the Townships or parts of Townships hereinbefore reserv'd for the use of the late Continental Army to be drawn for in such manner as he shall deem expedient to answer the purpose of an impartial distribution.

He shall from time to time transmit certificates difficult of imitation to the loan officers of the different States to the lines of which the Military claimants respectively belong, specifying the name and rank of the party the terms of his engagement and time of his service and the division Brigade regiment or company to which he belong'd, the quantity of land he *has a title to receive* is intituled to, and the *District* Township out of which his portion is to be *assigned* taken.

The loan Officers shall execute deeds for such undivided *moieties* [Proportions] in manner and form herein before mentioned, varying only in such a degree as to make the same conformable to the Certificate from the Secretary at War.

Where any Military claimants of bounty [in Lands] shall not belong to the Line of any particular State similar certificates shall be sent to the Commrs. of the Treasury, who shall execute deeds to the parties for the same.

The Comrs. of the Treasury and loan Officers in the States shall within 12 months return receipts to the Secy. at War for all deeds which have been delivered, as also all the original deeds which remain in their hands for want of applicants which deeds so returned shall be preserv'd in the Office until the parties or their repre-

sentatives require the same, [saving and confirming always to all Officers and Soldiers entitled to Lands on the Northern Side of the Ohio, by donation or Bounty from the Commonwealth of Virginia and to all Persons claiming under them all Rights to which they are so entitled by the Laws of the said State and the Acts of Congress accepting the Cession of Western Territory from the said State.][1]

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[1] This draft, in the writing of William Grayson, except the part in brackets which is in the writing of Hugh Williamson, is in the *Papers of the Continental Congress*, No. 56, folios 451-465. It was read this day and April 14 assigned for consideration. See *post* May 20.

Act of May 20, 1785

1 Laws of the United States 563 (1815)

CHAPTER 32.

An ordinance for ascertaining the mode of disposing of lands in the Western Territory.

Be it ordained by the United States in congress assembled, That the territory ceded by individual states, to the United States, which has been purchased of the Indian inhabitants, shall be disposed of in the following manner:

A surveyor from each state shall be appointed by congress, or a committee of the states, who shall take an oath for the faithful discharge of his duty, before the geographer of the United States, who is hereby empowered and directed to administer the same; and the like oath shall be administered to each chain carrier, by the surveyor under whom he acts.

The geographer, under whose direction the surveyors shall act, shall occasionally form such regulations for their conduct, as he shall deem necessary; and shall have authority to suspend them for misconduct in office, and shall make report of the same to congress, or to the committee of the states; and he shall make report in case of sickness, death, or resignation, of any surveyor.

The surveyors, as they are respectively qualified, shall proceed to divide the said territory into townships of six miles square, by lines running due north and south, and others crossing these at right angles, as near as may be, unless where the boundaries of the late Indian purchases may render the same impracticable, and then they shall depart from this rule no farther than such particular circumstances may require. And each surveyor shall be allowed and paid at the rate of two dollars for every mile in length he shall run, including the wages of chain car-

riers, markers, and every other expense attending the same.

The first line running north and south as aforesaid, shall begin on the river Ohio, at a point that shall be found to be due north from the western termination of a line which has been run as the southern boundary of the state of Pennsylvania: and the first line running east and west, shall begin at the same point, and shall extend throughout the whole territory; provided, that nothing herein shall be construed, as fixing the western boundary of the state of Pennsylvania. The geographer shall designate the townships or fractional parts of townships, by numbers, progressively, from south to north; always beginning each range with No. 1; and the ranges shall be distinguished by their progressive numbers to the westward. The first range, extending from the Ohio to the lake Erie, being marked No. 1. The geographer shall personally attend to the running of the first east and west line; and shall take the latitude of the extremes of the first north and south line, and of the mouths of the principal rivers.

The lines shall be measured with a chain; shall be plainly marked by chaps on the trees, and exactly described on a plat; whereon shall be noted by the surveyor, at their proper distances, all mines, salt springs, salt licks, and mill seats, that shall come to his knowledge; and all water courses, mountains, and other remarkable and permanent things, over or near which such lines shall pass, and also the quality of the lands.

The plats of the townships, respectively, shall be marked, by subdivisions, into lots of one mile square, or 640 acres, in the same direction as the external lines, and numbered from 1 to 36; always beginning the succeeding range of the lots with the number next to that with which the preceding one concluded. And where, from the causes beforementioned, only a fractional part of a town-

ship shall be surveyed, the lots protracted thereon shall bear the same numbers as if the township had been entire. And the surveyors, in running the external lines of the townships, shall, at the interval of every mile, mark corners for the lots which are adjacent, always designating the same in a different manner from those of the townships.

The geographer and surveyors shall pay the utmost attention to the variation of the magnetic needle, and shall run and note all lines by the true meridian, certifying with every plat what was the variation at the times of running the lines thereon noted.*

As soon as seven ranges of townships, and fractional parts of townships, in the direction from south to north, shall have been surveyed, the geographer shall transmit plats thereof to the board of treasury, who shall record the same, with the report, in well bound books to be kept for that purpose. And the geographer shall make similar returns, from time to time, of every seven ranges, as they may be surveyed. The secretary of war shall have recourse thereto, and shall take by lot therefrom a number of townships and fractional parts of townships, as well from those to be sold entire, as from those to be sold in lots, as will be equal to one-seventh part of the whole of such seven ranges, as nearly as may be, for the use of the late continental army; and he shall make a similar draught, from time to time, until a sufficient

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* On motion by Mr. King, seconded by Mr. Hornblower,

Whereas the ordinance for ascertaining the mode of disposing of lands in the western territory, directs "That the geographer and surveyors shall pay the utmost attention to the variation of the magnetic needle, and shall run and note all lines by the true meridian, certifying with every plat what was the variation at the times of running the lines thereon noted;" which direction will greatly delay the survey of the said territory;

Resolved, That the above recited clause in the said ordinance be, and the same hereby is, repealed.

quantity is drawn to satisfy the same, to be applied in manner hereinafter directed.† The board of treasury shall, from time to time, cause the remaining numbers, as well those to be sold entire as those to be sold in lots, to be drawn for, in the name of the thirteen states, respectively, according to the quotas in the last preceding requisition on all the states: provided, that in case more land than its proportion is allotted for sale in any state at any distribution, a deduction be made therefor at the next.‡

The board of treasury shall transmit a copy of the original plats, previously noting thereon the townships

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‡ On a report of the board of treasury, to whom it was referred to report a plan for selling, for public securities, the townships surveyed in the western territory:

Resolved, That after the secretary of war shall have drawn for the proportionate quantity of the lands already surveyed, which were assigned to the late army, agreeably to the ordinance of the 20th of May, 1785, the remainder shall be advertised for sale in one of the newspapers, at least, of each of the states, and at the expiration of five months from this day, the sale of the land shall commence in the place where congress shall sit, and continue, from day to day, until the same shall be disposed of: provided, that none of the land shall be sold at a less price than one dollar per acre, and that the sale shall be made agreeably to the mode pointed out by the ordinance aforesaid.

Resolved, That one-third of the purchase money shall be immediately paid, in any of the public securities of the United States, to the treasurer of the said states, and that the remaining two-thirds shall be paid, in like manner, in three months after the date of the sale; on which payment (a certificate thereof being previously furnished by the treasurer to the board of treasury,) titles to the lands shall be given to the purchasers by the board of treasury, agreeably to the terms prescribed by the said ordinance: provided, that if the second payment shall not be made in three months as aforesaid, the first payment shall be forfeited, and the land shall again be exposed to sale.

Ordered, That the board of treasury take the necessary measures for carrying the aforesaid resolution into effect, and also for exhibiting the surveys of the lands.

and fractional parts of townships, which shall have fallen to the several states, by the distribution aforesaid, to the commissioners of the loan office of the several states, who, after giving notice of not less than two, nor more than six, months, by causing advertisements to be posted up at the court houses or other noted places in every county, and to be inserted in one newspaper published in the states of their residence, respectively, shall proceed to sell the townships or fractional parts of townships, at public vendue, in the following manner, viz: the township or fractional part of a township No. 1, in the first range, shall be sold entire; and No. 2, in the same range, by lots; and thus, in alternate order, through the whole of the first range. The township or fractional part of a township No. 1, in the second range, shall be sold by lots; and No. 2, in the same range, entire; and so, in alternate order, through the whole of the second range; and the third range shall be sold in the same manner as the first, and the fourth in the same manner as the second; and thus, alternately, throughout all the ranges: provided, that none of the lands within the said territory be sold under the price of one dollar the acre, to be paid in specie or loan office certificates, reduced to specie value by the scale of depreciation, or certificates of liquidated debts of the United States, including interest, besides the expense of the survey and other charges thereon, which are hereby rated at thirty-six dollars the township, in specie or certificates as aforesaid, and so, in the same proportion, for a fractional part of a township or of a lot, to be paid at the time of sales, on failure of which payment the said lands shall again be offered for sale.

There shall be reserved for the United States out of every township, the four lots, being numbered 8, 11, 26, 29, and out of every fractional part of a township, so many lots of the same numbers as shall be found thereon, for future sale. There shall be reserved the lot No. 16, of every township, for the maintenance of public schools

within the said township; also, one-third part of all gold, silver, lead, and copper, mines to be sold, or otherwise disposed of, as congress shall hereafter direct.

When any township, or fractional part of a township, shall have been sold as aforesaid, and the money or certificates received therefor, the loan officer shall deliver a deed in the following terms:

The United States of America, to all to whom these presents shall come, greeting:

Know ye, that for the consideration of —— dollars, we have granted, and hereby do grant and confirm, unto ————, the township (or fractional part of the township, as the case may be) numbered ——, in the range ——, excepting therefrom, and reserving, one-third part of all gold, silver, lead, and copper mines, within the same; and the lots No. 8, 11, 26, and 29, for future sale or disposition, and the lot No. 16, for the maintenane of public schools. To have to the said ————, his heirs and assigns, forever; (or, if more than one purchaser, to the said ————, their heirs and assigns, forever, as tenants in common.) In witness whereof, A.B. commissioner of the loan office in the state of ————, hath, in conformity to the ordinance passed by the United States, in congress assembled, the twentieth day of May, in the year of our Lord 1785, hereunto set his hand and affixed his seal, this —— day of ———, in the year of our Lord, ——, and of the independence of the United States of America ———.

And when any township, or fractional part of a township, shall be sold by lots as aforesaid, the commissioner of the loan office shall deliver a deed therefor in the following form:

The United States of America, to all to whom these presents shall come, greeting:

Know ye, that for the consideration of —— dollars, we have granted, and hereby do grant and confirm, unto

————————, the lot (or lots, as the case may be, in the township or fractional part of the township, as the case may be) numbered ——, in the range ——, excepting and reserving one-third part of all gold, silver, lead, and copper mines, within the same, for future sale or disposition. To have to the said ————————, his heirs and assigns, for ever; (or, if more than one purchaser, to the said ————————, their heirs and assigns, forever, as tenants in common.) In witness whereof, A.B. commissioner of the continental loan office in the state of ————, hath, in conformity to the ordinance passed by the United States in congress assembled, the twentieth day of May, in the year of our Lord 1785, hereunto set his hand and affixed his seal, this —— day of ———, in the year of our Lord ——, and of the independence of the United States of America ————————.

Which deeds shall be recorded in proper books, by the commissioner of the loan office, and shall be certified to have been recorded, previous to their being delivered to the purchaser, and shall be good and valid to convey the lands in the same described.

The commissioners of the loan offices, respectively, shall transmit to the board of treasury, every three months, an account of the townships, fractional parts of townships, and lots, committed to their charge; specifying therein the names of the persons to whom sold, and the sums of money or certificates received for the same; and shall cause all certificates by them received, to be struck through with a circular punch; and they shall be duly charged in the books of the treasury with the amount of the moneys or certificates, distinguishing the same, by them received as aforesaid.

If any township, or fractional part of a township or lot, remains unsold for eighteen months after the plat shall have been received by the commissioners of the loan office, the same shall be returned to the board of treasury, and shall be sold in such manner as congress may hereafter direct.

And whereas congress, by their resolutions of September 16th and 18th, in the year 1776, and the 12th of August, 1780, stipulated grants of land to certain officers and soldiers of the late continental army, and by the resolution of the 22d September, 1780,* stipulated grants

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* The resolutions of congress of the 16th of September, 1776, here referred to, provide for the raising of eighty-eight battalions, to serve for the war. In addition to a money bounty of twenty dollars to each noncommissioned officer and private soldier, it was resolved, "that congress make provision for granting lands, in the following proportions, to the officers and soldiers who shall engage in the service, and continue therein to the close of the war, or until discharged by congress, and to the representatives of such officers and soldiers, as shall be slain by the enemy.

"Such lands to be provided by the United States, and whatever expense shall be necessary to procure such land, the said expense shall be paid and borne by the states, in the same proportion as the other expenses of the war, viz:

To a colonel	500 acres.
To a lieutenant colonel	450
To a major	400
To a captain	300
To a lieutenant	200
To an ensign	150
Each noncommissioned officer and soldier	100."

On the 18th of September, 1776, the following resolutions were adopted:

"That the bounty and grants of land offered by congress, by a resolution of the 16th instant, as an encouragement to the officers and soldiers to engage to serve in the army of the United States during the war, shall extend to all who are, or shall be, enlisted for that term; the bounty of ten dollars, which any of the soldiers have received from the continent, on account of a former enlistment, to be reckoned in part payment of the twenty dollars offered by the said resolution:

"That no officer in the continental army be allowed to hold more than one commission, or to receive pay but in one capacity, at the same time."

[Continued]

* [Continued]

The resolution of the 12th of August, 1780, referred to, is in the words following:

"That the provision for granting lands, by the resolution of September 16th, 1776, be and is hereby extended to the general officers, in the following proportion:

To a major general, one thousand one hundred acres,

a brigadier general, eight hundred and fifty do."

With respect to the resolution of the 22d of September, 1780, the following appears on the journals of congress:

"Congress resumed the consideration of the report of the committee on the medical department; and, on the consideration of the following paragraph, viz:

"That the several officers, whose pay is established as above, except the clerks and stewards, shall, at the end of the war, be entitled to a certain provision of land, in the proportion following, to wit:

"The director to have the same quantity as a brigadier general; chief physicians and purveyor the same as a colonel; physicians and surgeons, and apothecary, the same as a lieutenant colonel; regimental surgeons and assistants to the purveyor and apothecary, the same as a major; hospital and regimental surgeons' mates, the same as a captain:"

"A motion was made by Mr. Muhlenberg, seconded by Mr. Bland,

"To amend the paragraph, by inserting after the words "entitled to," the words following, viz: "half pay, in the same proportion and under like restrictions a officers of the line."

"And on the question to agree to the amendment,

"The yeas and nays were required, and

"It was resolved in the affirmative.

'On the question to agree to the paragraph, as amended;

The yeas and nays were required, and

"It was resolved in the affirmative.

"Ordered, That the paragraph respecting the pay be recommitted."

To these provisions for military bounties, may be added the following resolution of the 3d of October, 1780:

"And whereas, by the foregoing arrangement,† many deserving officers must become supernumerary, and it is proper that regard be had to them:

"Resolved, That from the time the reform of the army takes place, they be entitled to half pay for seven years, in specie or other

of land to certain officers in the hospital department of the late continental army; for complying, therefore, with such engagements, be it ordained, that the secretary of war, from the returns in his office, or such other sufficient evidence as the nature of the case may admit, determine who are the objects of the above resolutions and engagements, and the quantity of land to which such persons or their representatives are, respectively, entitled, and cause the townships or fractional parts of townships, herein before reserved for the use of the late continental army, to be drawn for in such manner as he shall deem expedient, to answer the purpose of an impartial distribution. He shall, from time to time, transmit certificates to the commissioners of the loan offices of the different states, to the lines of which the military claimants have respectively belonged, specifying the name and rank of the party, the terms of his engagement and time of his service, and the division, brigade, regiment, or company, to which he belonged, the quantity of land he is entitled to, and the township or fractional part of a township and range out of which his portion is to be taken.

The commissioners of the loan offices shall execute deeds for such undivided proportions, in manner and form herein beforementioned, varying only in such a degree as to make the same conformable to the certificate from the secretary of war.

Where any military claimants of bounty in lands shall not have belonged to the line of any particular state, similar certificates shall be sent to the board of treasury, who shall execute deeds to the parties for the same.

The secretary of war, from the proper returns, shall transmit to the board of treasury a certificate, specify-

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current money equivalent, and also grants of land at the close of the war agreeably to the resolution of the 16th of

ing the name and rank of the several claimants of the hospital department of the late continental army, together with the quantity of land each claimant is entitled to, and the township or fractional part of a township and range out of which his portion is to be taken; and thereupon the board of treasury shall proceed to execute deeds to such claimants.

The board of treasury, and the commissioners of the loan offices in the states, shall, within eighteen months, return receipts to the secretary of war, for all deeds which have been delivered, as also all the original deeds which remain in their hands for want of applicants, having been first recorded; which deeds, so returned, shall be preserved in the office, until the parties or their representatives require the same.

And be it further ordained, That three townships adjacent to lake Erie be reserved, to be hereafter disposed of by congress, for the use of the officers, men, and others, refugees from Canada, and the refugees from Nova Scotia, who are or may be entitled to grants of land under resolutions of congress now existing, or which may hereafter be made respecting them, and for such other purposes as congress may hereafter direct.

And be it further ordained, That the towns of Gnadenhutten, Schoenbrun, and Salem, on the Muskingum, and so much of the lands adjoining to the said towns, with the buildings and improvements thereon, shall be reserved for the sole use of the christian Indians, who were formerly settled there, or the remains of that society, as may, in the judgment of the geographer, be sufficient for them to cultivate.*

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* A motion being made in the words following:

"Whereas the United States in congress assembled, have, by their ordinance, passed the 20th of May, 1785, among other things ordained, that the towns of Gnadenhutten, Schoenbrun, and Salem, on the Muskingum, and so much of the lands adjoining to the said towns, with the buildings and improvements thereon, shall

Saving and reserving always, to all officers and soldiers entitled to lands on the northwest side of the Ohio, by donation or bounty from the commonwealth of Virginia, and to all persons claiming under them, all rights to which they are so entitled, under the deed of cession executed by the delegates for the state of Virginia, on the 1st day of March, 1784, and the act of congress accepting the same: and to the end that the said rights may be fully and effectually secured, according to the true intent and meaning of the said deed of cession and act aforesaid, be it ordained, that no part of the land included between the rivers called Little Miami and Scioto, on the northwest side of the river Ohio, be sold, or in any manner alienated, until there shall first have been laid off and appropriated for the said officers and soldiers, and persons claiming under them, the lands they are entitled to, agreeably to the said deed of cession and act of congress, accepting the same.†

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be reserved for the sole use of the christian Indians who were formerly settled there, or the remains of that society, as may, in the judgment of the geographer, be sufficient for them to cultivate:"

Resolved, That the board of treasury and reserve out of any contract that they may make for the tract described in the report of the committee which, on the 23d instant, was referred to the said board to take order, a quantity of land around and adjoining each of the beforementioned towns, amounting, in the whole, to the thousand acres; and that the property of the said reserved land be vested in the Moravian brethren, at Bethlehem, in Pennsylvania, or a society of the said brethren, for civilizing the Indians and promoting christianity, in trust, and for the uses expressed as above in the said ordinance; including Killbuck and his descendants, and the nephew and descendants of the late captain White Eyes, Delaware chiefs, who have distinguished themselves as friends to the cause of America."

Ordered, That the above be also referred to the board of treasury to take order.

‡ On the report of a committee, consisting of Mr. Carrington, Mr. King, Mr. Dane, Mr. Madison, and Mr. Cook, to whom was referred a letter of the secretary of war, of the 26th of April last.

Done by the United States in congress assembled, the twentieth day of May, in the year of our Lord one thousand seven hundred and eighty-five, and of our sovereignty and independence the ninth.

RICHARD H. LEE, *president.*

Charles Thomson, secretary.

[*Note.* The regulations of the preceding ordinance, respecting the transmission of certificates to the commissioners of loans, and the mode of making deeds, have never been carried into effect. *Note of the editor of the Land Laws*, &c.]

Act of July 13, 1787

1 Laws of the United States 475 (1815)

According to order, the ordinance for the government of the territory of the United States northwest of the river Ohio, was read a third time, and passed, as follows:

An ordinance for the government of the territory of the United States northwest of the river Ohio.

Be it ordained by the United States in congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and nonresident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child, in equal parts; the descendants of a deceased child or grand child to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parents' share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as herein after mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be, (being of full age,) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and

delivered, by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly approved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers, shall be appointed for that purpose; saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed, from time to time, by congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed, from time to time, by congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months, to the secretary of congress: There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to congress, from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander in chief of the militia, appoint and commission all officers in the same, below the rank of general officers, all general officers shall be appointed and commissioned by congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general as-

sembly; provided that, for every five hundred free male inhabitants, there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature; provided, that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and in either case, shall likewise hold in his own right, in fee simple, two hundred acres of land within the same; provided also, that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years residence in the district, shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected, shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in this stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by congress; any three of whom to be a quorum: and the members of the council shall be nominated and appointed in the following manner to-wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, residents in the district, and each possesesd of a freehold in five hundred acres of land, and return their names to congress; five of whom congress shall appoint and commission to

serve as aforesaid: and whenever a vacancy, shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to congress; one of whom congress shall appoint and commission for the residue of the term: And every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to congress; five of whom congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve, the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as congress shall appoint to the district, shall take an oath or affirmation of fidelity, and of office; the governor before the president of congress; and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to congress, who shall have a seat in congress, with a right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever here-

after shall be formed in the said territory; to provide, also, for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original states, at as early periods as may be consistent with the general interest:

It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact, between the original states and the people and states in said territory, and forever remain unalterable, unless by common consent, to wit:

ART. 1. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

ART. 2. The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall, in any manner whatever, interfere with, or affect, private contracts or engagements, bona fide, and without fraud, previously formed.

ART. 3. Religion, morality, and knowledge, being necessary to good government and the happiness of man-

kind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ART. 4. The said territory, and the states which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new states, as in the original states, within the time agreed upon by the United States in congress assembled. The legislatures of those districts, or new states, shall never interfere with the primary disposal of the soil by the United States in congress assembled, nor with any regulations congress may find necessary, for securing the title in such soil, to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to

the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ART. 5. There shall be formed in the said territory, not less than three, nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same,* shall become fixed and established as follows, to wit: the western state in the said territory, shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Post Vincents, due north, to the territorial line between the United States and Canada; and by the said territorial line to the lake of the Woods and Mississippi. The middle states shall be bounded by the said direct line, the Wabash, from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: provided however, and it is further understood and declared, that the boundaries of these three states shall be subject so far to be altered, that, if congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government: provided the constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with

the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

ART. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784,† relative to the

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† *Resolved*, That so much of the territory ceded or to be ceded by individual states to the United States, as is already purchased or shall be purchased of the Indian inhabitants, and offered for sale by congress, shall be divided into distinct states in the following manner, as nearly as such sessions will admit; that is to say, by parallels of latitude, so that each state shall comprehend from north to south two degrees of lati

tor; and by meridians of longitude, one of which shall pass through the lowest point of the rapids of Ohio, and the other through the western cape of the mouth of the great Kanhaway; but the territory eastward of this last meridian, between the Ohio, lake Erie, and Pennsylvania, shall be one state, whatsoever may be its comprehension of latitude. That which may lie beyond the completion of the 45th degree, between the said meridians, shall make part of the state adjoining it on the south; and that part of the Ohio, which is between the same meridians, coinciding nearly with the parallel of 39 degrees, shall be substituted so far in lieu of that parallel as a boundary line.

That the settlers on any territory so purchased and offered for sale, shall, either on their own petition or on the order of congress, receive authority from them, with appointments of time and place, for their free males of full age, within the limits of their state, to meet together, for the purpose of establishing a temporary government, to adopt the constitution and laws of any one of the original states; so that such laws, nevertheless, shall be subject to alteration by their ordinary legislature; and to erect, subject to a like

subject of this ordinance, be, and the same are hereby repealed and declared null and void. Done, &c.

Whereas the United States in congress assembled did, on the seventh day of July, in the year of our Lord one

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alteration, counties, townships, or other divisions, for the election of members for their legislature.

That when any such state shall have acquired twenty thousand free inhabitants, on giving due proof thereof to congress, they shall receive from them authority, with appointments of time and place, to call a convention of representatives to establish a permanent constitution and government for themselves. Provided, that both the temporary and permanent governments be established on these principles as their basis:

1. That they shall for ever remain a part of this confederacy of the United States of America.

2. That they shall be subject to the articles of confederation in all those cases in which the original states shall be so subject, and to all the acts and ordinances of the United States in congress assembled, conformable thereto.

3. That they, in no case, shall interfere with the primary disposal of the soil by the United States in congress assembled, nor with the ordinances and regulations which congress may find necessary for securing the title in such soil to the bona fide purchasers.

4. That they shall be subject to pay a part of the federal debts contracted, or to be contracted, to be apportioned on them by congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states:

5. That no tax shall be imposed on lands the property of the United States.

6. That their respective governments shall be republican.

7. That the lands of nonresident proprietors shall, in no case, be taxed higher than those of residents within any new state, before the admission thereof to a vote by its delegates in congress.

That whensoever any of the said states shall have, of free inhabitants, as many as shall then be in any one the least numerous of the thirteen original states, such state shall be admitted by its delegates into the congress of the United States, on an equal footing with the said original states; provided the consent of so many states in congress is first obtained as may, at the time, be competent to such admission. And in order to adapt the said

thousand seven hundred and eighty-six, state certain reasons, showing that a division of the territory which hath been ceded to the said United States, by this commonwealth, into states, in conformity to the terms of cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the act of cession, so far as to empower congress to make such a division of the said territory into distinct and republican states, not more than five nor less than three in number, as the situation of that country and future circumstances might require; and the said United States in congress assembled have, in an ordinance for the government of the territory northwest of the river Ohio, passed on the thirteenth of July, one thousand seven hundred and eighty-seven, declared the following as one

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articles of confederation to the state of congress when its numbers shall be thus increased, it shall be proposed to the legislatures of the states, originally parties thereto, to require the assent of two thirds of the United States in congress assembled, in all those cases wherein, by the said articles, the assent of nine states is now required, which, being agreed to by them, shall be binding on the new states. Until such admission by their delegates into congress, any of the said states, after the establishment of their temporary government, shall have authority to keep a member in congress, with a right of debating, but not of voting.

That measure, not inconsistent with the principles of the confederation, and necessary for the preservation of peace and good order among the settlers in any of the said new states, until they shall assume a temporary government as aforesaid, may, from time to time, be taken by the United States in congress assembled.

That the preceding articles shall be formed into a charter of compact; shall be duly executed by the president of the United States in congress assembled, under his hand, and the seal of the United States; shall be promulgated; and shall stand as fundamental constitutions between the thirteen original states, and each of the several states now newly described, unalterable from and after the sale of any part of the territory of such state, pursuant to this resolve, but by the joint consent of the United States in congress assembled, and of the particular state within which such alteration is proposed to be made. [*Journals of Congress*]

of the articles of compact between the original states and the people and states in the said territory, viz:

> [Here the 5th article of compact, of the ordinance of congress, of 13th July, 1787, is recited verbatim. See ante, page 480.]

And it is expedient that this commonwealth do assent to the proposed alterations, so as to ratify and confirm the said article of compact between the original states and the people and states in the said territory;

2. Be it, therefore, enacted, by the general assembly, That the aforerecited article of compact, between the original states and the people and states in the territory northwest of Ohio river, be, and the same is hereby ratified and confirmed, any thing to the contrary, in the deed of cession of the said territory by this commonwealth to the United States, notwithstanding.

Act of July 23, 1787

1 Laws of the United States 573 (1815)

Powers to the board of treasury to contract for the sale of western territory

The report of a committee, consisting of Mr. Carrington, Mr. King, Mr. Dane, Mr. Madison, and Mr. Benson, amended to read as follows, viz.

That the board of treasury be authorized and empowered to contract with any person or persons for a grant of a tract of land which shall be bounded by the Ohio, from the mouth of Scioto to the intersection of the western boundary of the seventh range of townships now surveying; thence by the said boundary to the northern boundary of the tenth township from the Ohio; thence by a due west line to Scioto; thence by the Scioto to the beginning, upon the following terms, viz: The tract to be surveyed, and its contents ascertained, by the geographer or some other officer of the United States, who shall plainly mark the said east and west line, and shall render one complete plat to the board of treasury, and another to the purchaser or purchasers. The purchaser or purchasers, within seven years from the completion of this work, to lay off the whole tract, at their own expense, into townships and fractional parts of townships, and to divide the same into lots, according to the land ordinance of the 20th of May, 1785;* complete returns whereof to be made to the treasury board. The lot No. 16, in each township or fractional part of a township, to be given perpetually for the purposes contained in the said ordinance. The lot No. 29, in each township or fractional part of a township, to be given perpetually for the purposes of religion.† The lots Nos. 8, 11, and 26, in each

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* See the ordinance, ante, chapter 32, page 563.

† This grant of No. 29, for religious purposes, is confined to the Ohio company's purchase, and to John Cleves Symmes' patent. *Note of the editor of the Land Laws* & c.

township, or fractional part of a township, to be reserved for the future disposition of congress. Not more than two complete townships to be given perpetually for the purposes of an university, to be laid off by the purchaser or purchasers, as near the centre as may be, so that the same shall be of good land, to be applied to the intended object by the legislature of the state. The price to be not less than one dollar per acre for the contents of the said tract, excepting the reservations and gifts aforesaid, payable in specie, loan office certificates reduced to specie value, or certificates of liquidated debts of the United States, liable to a reduction by an allowance for bad land, and all incidental charges and circumstances whatever; provided, that such allowance shall not exceed, in the whole, one-third of a dollar per acre. And in making payment the principal only of the said certificates shall be admitted,‡ and the board of treasury, for such interest as may be due on the certificates rendered in payment as aforesaid, prior to January 1, 1786, shall issue indents for interest to the possessors, which shall be receivable in payment as other indents for interest of the existing requisitions of congress; and for such interest as may be due on the said certificates between that period and the period of payment, the said board shall issue indents, the payment of which to be provided for in future requisitions, or otherwise. Such of the purchasers as may possess rights for bounties of land to the late army, to be permitted to render the same in discharge of the contract, acre for acre; provided, that the aggregate

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‡ On a letter of the 22d from the board of treasury, stating, that in the sales which they have made of lands in the western territory, a declaration had been made by them, previous to the sale, that the interest on the securities to be received in payment was not to be computed, and requesting to be favored with the sense of congress, whether in payment of purchases made under the ordinance of the 20th May, 1785, interest should be computed on the principal of the securities, and received in payment on the same terms with the principal. [*The resolve at bottom of next page.*]

of such rights shall not exceed one-seventh part of the land to be paid for; and provided also, that there shall be no future claim against the United States on account of the said rights. Not less than 500,000 dollars of the purchase money to be paid down upon closing of the contract, and the remainder upon the completion of the work to be performed by the geographer or other officer on the part of the United States. Good and sufficient security to be given by the purchaser or purchasers for the completion of the contract on his or their part. The grant to be made upon the full payment of the consideration money, and a right of entry and occupancy to be acquired immediately for so much of the tract as shall be agreed upon between the board of treasury and the purchasers.

Ordered, That the above be referred to the board of treasury to take order.

[*Note*. See, in relation to the preceding report and order, the letter from Manh. Cutler and Winthrop Sargent; ante, chap. 31, No. 14, page 491. With respect to that letter, which was dated "New York, July 26, 1787," congress, on the day following, passed the subjoined order:

"Ordered, That the above letter from Manh. Cutler, and Winthrop Sargent, to the board of treasury, containing proposals for the purchase of a tract of land described in the act of congress of the 23d instant, be referred to the board of treasury to take order; provided, that after the date of the second payment therein proposed to be made, the residue shall be paid in six equal and half yearly instalments, until the whole thereof shall be completed, and that the purchasers stipulate to pay interest on the sums due from the completion of the survey to be performed by the geographer. *Journals of congress, July 27, 1787.*]

Act of June 20, 1788

1 Laws of the United States 580 (1815)

Provisions respecting claims and donations in the territories of Indiana, Illinois, and Michigan.

The committee, consisting of Mr. Williamson, Mr. Dane, Mr. Carrington, Mr. Kearney, and Mr. Wingate, to whom was referred a memorial of George Morgan and his associates, respecting a tract of land in the Illinois country, on the Mississippi, having reported thereon, and their report being amended to read as follows: "That there are sundry French settlements on the river Mississippi, within the tract which Mr. Morgan and his associates propose to purchase. Near the mouth of the river Kaskaskies, there is a village which appears to have contained near eighty families from the beginning of the late revolution. There are twelve families in a small village at la Prairie du Rochers, and near fifty families at the Kahokia village. There are also four or five families at fort Chartres and St. Philips, which is five miles farther up the river. The heads of families in those villages appear, each of them, to have had a certain quantity of arable land allotted to them, and a proportionate quantity of meadow and of woodland or pasture. Your committee are of opinion, that from any general sale which may be made of the lands on the Mississippi, there should, at least, be a reserve of so much land as may satisfy all the just claims of the ancient settlers on that river, and that they should be confirmed in the possession of such lands as they may have had at the beginning of the late revolution, which may have been allotted to them according to the laws or usages of the governments under which they have respectively settled. And whereas an additional quantity of land may be necessary for the support of those people whenever the settlement shall increase, and the Indian trade, by which they have chiefly subsisted, shall become less profitable; your committee are of the opinion that such allowance should also be made

to them within the reserved limits. Your committee observe, that in the contract which is already made for the sale of a tract of land in the western country, the purchasers are to be charged with surveying three lots which are reserved for the benefit of the United States. They conceive that future contractors may be relieved from this expense, but they would propose that every agreement hereafter to be made shall be equally binding on the contracting parties; whereupon they submit the following resolves:

That the board of treasury be authorized to contract with any person or persons for a grant of a tract of land, which shall be bounded as follows: beginning on the river Au Vase, in the parallel of latitude of the mouth of Little Wabash river; thence running due north to the parallel of latitude which passes through the mouth of Wood river; thence west to the Mississippi at the mouth of Wood rivers; thence down the river Mississippi to the mouth of the river Au Vase; thence up the said river to the place of beginning, under the exceptions and reservations hereinafter mentioned.

That the purchaser or purchasers shall oblige themselves to lay off the tract at their own expense, into townships or fractional parts of townships, and to divide the same into lots according to the land ordinance of the 20th May, 1785,* complete returns of which are to be made to the board of treasury. The lot No. 16, in each township, or fractional part of a township, to be given perpetually for the purposes contained in the said ordinance; and the lot No. 29, in each township or fractional part of a township, to be given perpetually for the purposes of religion; and that each of the several townships shall be thus laid off before the original purchaser or purchasers shall have disposed of the same, or make any settlement therein. The price to be not less than two-thirds of a dollar per acre for the contents of the said

* See the ordinance, ante, chap. 32, page 563.

tract, except the reservations and gifts herein mentioned, payable in specie, loan office certificates reduced to specie value, or certificates of liquidated debts of the United States; the principal only of the said certificates to be received in payment; and the board of treasury, for such interest as may be due on the certificates rendered in payment as aforesaid, prior to the first day of January, 1787, shall issue indents for interest to the possessors, which shall be receivable in payment as other indents for interest of the existing requisitions of congress; and for such interest as may be due on the said certificates, be-between that period and the time of payment, the board shall issue indents, the payment of which to be provided for hereafter. That part of the purchase money, not less than one hundred and fifty thousand dollars, shall be paid down upon the closing of the contract, and the remainder of the purchase money whenever the Indian claim shall have been extinguished, and the boundary line of the tract run by the geographer of the United States, or his assistant, the contents of the land which is to be sold ascertained, and a pilot of the same returned to the office of the treasury board; on which payment a grant shall be made, and the purchaser or purchasers shall have the right of entry and occupancy.*

That separate tracts shall be reserved for satisfying the claims of the ancient settlers, which shall be included within the following boundary, viz: a straight line to be extended from the mouth of the little river Marie, below the river Kaskaskies, to the old French fort on the east side of the said river Kaskaskies and opposite the Kaskaskie village; thence north three miles; thence west across the Kaskaskies river to the ridge of rocks and high land which extend from the Kaskaskies to the Illinois rivers; then along the west side or foot of the said ridge of rocks and high land, to the parallel that runs two miles north of the church at Kahokia; thence west

* The purchase, thus authorized, was never effected.

to the river Mississippi; thence down the said river to the mouth of the river Marie.

That measures be immediately taken for confirming in their possessions and titles, the French and Canadian inhabitants, and other settlers on those lands, who, on or before the year 1783, had professed themselves citizens of the United States or any of them, and for laying off the several tracts which they rightfully claim within the described limits; and for laying off, for the benefit of the said inhabitants, three additional tracts adjoining the several villages Kaskaskies, la Prairie du Rochers, and Kahokia, in the form of a parallelogram, extending from the river Mississippi eastward, to the ridge of rocks before described, and of such extent as shall contain four hundred acres for each of the families now living at either of the villages of Kaskaskies, la Prairie du Rochers, Kahokia, fort Chartres, or St. Philip's. The additional reserved tract adjoining the village of Kaskaskies shall be for the heads of families in that village; the tract adjoining la Prairie du Rochers for the heads of families in that village; and the tract adjoining Kahokia for the heads of families in that village, as also for those at fort Chartres and St. Philip's. Such additional donations of four hundred acres each to be distributed by lot, and immediate possession given: provided nevertheless, that no person thus obtaining possession of such donation lands shall have power to alienate the same, until he or she, or his or her heirs, shall have resided, at least three years from the time of such distribution, within that district; at the end of which period, every such resident shall obtain a title to the reserved lot; and all lots not thus conveyed to residents, shall revert to the United States.

Thus whenever the French and Canadian inhabitants, and other settlers aforesaid, shall have been confirmed in their possessions and titles, and the amount of the same ascertained, and the three additional parallelograms for

future donations, and a tract of land one mile square on the Mississippi, extending as far above as below fort Chartres, and including the said fort, the buildings and improvements adjoining the same, shall be laid off, the whole remainder of the soil, within the reserved limits above described, shall be considered as appertaining to the general purchase, and shall be conveyed accordingly.

That measures be immediately taken to extinguish the Indian claim, if any such exists, to the land bordering on the Mississippi, from the mouth of the Ohio to a determined station on the Mississippi, that shall be sixty or eighty miles north from the mouth of the Illinois river, and extending from the Mississippi as far eastward as may be.

That the governor of the western territory be instructed to repair to the French settlements on the Mississippi, at and above the Kaskaskies; that he examine the titles and possessions of the settlers as above described, in order to determine what quantity of land they may severally claim, which shall be laid off for them at their own expense; and that he take an account of the several heads of families living within the reserved limits, in order that he may determine the quantity of land that is to be laid off in the several parallelograms, which shall be laid off accordingly by the geographer of the United States or his assistant, at the expense of the United States.

That the geographer of the United States be instructed to take the latitude of the mouth of the river Au Vase, and the mouth of Wood river, and of the northeast and southern angle of the tract; and that, in executing all other large surveys, he take the latitude of three or four of the chief corners."

Act of August 29, 1788

1 Laws of the United States 584 (1815)

On the report of a committee, consisting of Mr. Williamson, Mr. Dane, Mr. Clark, Mr. Tucker, and Mr. Baldwin, to whom was referred the report of a former committee, respecting the inhabitants of Post St. Vincents:

Resolved, That measures be taken for confirming in their possessions and titles, the French and Canadian inhabitants and other settlers at Post St. Vincents, who, on or before the year 1783, had settled there, and had professed themselves citizens of the United States, or any of them, and for laying off to them, at their own expense, the several tracts, which they rightfully claim, and which may have been allotted to them according to the laws and usages of the government under which they have respectively settled.

That four hundred acres of land be reserved and given to every head of a family, of the above description, settled at Post St. Vincents.

That the governor of the western territory cause to be laid out, at the public expense, in the form of a square, adjoining to the present improvements at Post St. Vincents, and in whatever direction the settlers shall prefer, a tract of land sufficient for completing the above donations; which tract shall afterwards be divided by lot among the settlers who are entitled to any part of the same, in such manner as they shall agree.

On a report of the same committee, the following instructions to the governor of the western territory were agreed to:

SIR: You are to proceed without delay, except while you are necessarily detained by the treaty now on hands, to the French settlements on the river Mississippi, in order to give despatch to the several measures which are to be taken according to the acts of the 20th June last,

and the 28th instant, of which a copy is enclosed for your information. You are to inquire whether there be any Indians who claim the lands on the east side of the river Mississippi, above the mouth of the Ohio; and if there be any such Indians, you are immediately to take measures for holding a treaty with them, and extinguishing their claim, at least to so much of the territory as you find described in he aforesaid acts, and in the several acts of October 22d, 1787, relative to lands on the Mississippi. If you find it cheapest and best to extinguish the claim of those Indians by agreeing to furnish them annually with a certain allowance in corn, or other provisions, for a term not exceeding ten years, you will contract accordingly.

When you have examined the titles and possessions of the settlers on the Mississippi, in which they are to be confirmed, and given directions for laying out the several squares, which the settlers may divide, as they shall think best among themselves, by lot, you are to report the whole of your proceedings to congress.

After you shall have despatched the several matters committed to your care on the Mississippi, you will take Post St. Vincents on your return, where you are to pursue the measures directed to be taken by the act of this day, and report your proceedings accordingly.

Committee Report to Congress September 1788

34 Journal of the Continental Congress 540-542 *
(Library of Congress ed. 1933)

[Report of committee on memorial of B. Tardiveau [3]]

The Com. consisting of Mr. [Abraham] Clark Mr. [Hugh] Williamson and Mr. [James] Madison to whom were referred the memorial of Mr. Tardiveau Agent of the French and American Inhabitants of the Illinois and Post St. Vincents, report, that in and by the Ordinance [1] for the Government of the Western territory passed the 13th day of July 1787, it is ordained that, "there shall be neither Slavery nor involuntary Servitude in the said territory otherwise than in the punishment of Crimes whereof the party shall have been duly convicted. And Whereas since the passing of said Ordinance it appears there were at that time Negroes under Servitude to the inhabitants then residing at Kaskaskies Illinois Post St. Vincents and other of the Antient French Settlements whose Right to the property they possessed were guaranteed by Congress in their Act [2] Accepting the Cession [3] of Claim to Western territory made by the State of Virginia; which Right of property it was not the intention of Congress to violate by said Ordinance but merely to restrain the

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* Words struck through in original document have been reprinted in italics.

[3] *Papers of the Continental Congress*, No. 19, VI, pp. 9-10 in the writing of Mr. Abraham Clark. Read September 1788. As there is no indication of the day of the reading, this report is printed on the first day on which business was transacted after the appointment of the committee. See September 17, 1788.

[1] *Journals*, vol. XXXIII, p. 343.

[2] *Journals*, vol. XXVI, p. 116.

[3] Original cession, engrossed on parchment, is in *Papers of the Continental Congress, Cessions of Western Lands.*

Settlers in future from carrying persons under Servitude into the Western territory, for remedy whereof,

Resolved, That the before mentioned Ordinance for the government of the Western territory, shall not be construed to deprive the Inhabitants of Kaskaskies Illinois Post St. Vincents and the other Villages formerly settled by the French and Canadians, of their Right and property in Negro or other Slaves which they were possessed of at the time of passing the said Ordinance, or in any manner to Manumit or Set free any such negroes or other persons under Servitude within any part of Sd. Western territory; any thing in the said Ordinance to the contrary notwithstanding.

And Whereas Congress by their Acts of the 20th of June and 29th of August last, took measures for confirming in their possessions and Titles all the French and Canadian Inhabitants and others, Settlers at or near the Rivers Mississippi Illinois and Wabash, who on or before the year 1783, had professed themselves Citizens of the United States or any of them, and for laying off the several tracts which they rightfully claim within certain limits. And also in and by said Acts directed the laying of certain tracts of Land of such extent as to contain four hundred acres as donations to each of the heads of families in the districts therein mentioned to be divided among them by lot, but omitted making any grants of land for *Supporting Religion* and for *Schools of education* as had been done in the Sales of Land in the western territory; for Supplying which Omission,

Resolved that before the Tracts of Land directed by the above mentioned Acts as donations to the heads of families, shall be laid of, there shall be laid out two Tracts of Land of Acres each Adjoining to each Village not the property of any of the Inhabitants of such Village; one of which said tracts adjoining each Village shall be and remain forever to the sole and only use of

Supporting the *ministry of Religion* in such Village, and the other of said tracts to remain in like manner for supporting *Schools of education* in the Village it adjoins, any thing in the Acts of Congress of the 20th of June or 29th of August last, to the contrary notwithstanding. (Emphasis added.)

Act of September 3, 1788

1 Laws of the United States 579 (1815)

Donation is the Society of the United Brethren.

On a report of a committee, consisting of Mr. Clark, Mr. Williamson, and Mr. Madison, to whom was referred a memorial of John Etwein, of Bethlehem, president of the Brethren's Society for propagating the Gospel among the Heathen:

Whereas the United States in congress assembled, by their ordinance of the 20th May, 1785, among other things, ordained that the towns of Gnadenhutten, Schoenbrun, and Salem, with lands adjoining to the said towns, be reserved for the sole use of the christian Indians, who were formerly settled there, or the remains of that society; and by an act of the 27th July, 1787, directed the board of treasury to except and reserve out of any contract they might make pursuant to an order of the 23d of the same month, a quantity of land around and adjoining to each of the beforementioned towns, amounting in the whole to ten thousand acres, and ordered the property of the said towns and reserved lands to be vested in the Moravian Brethren at Bethlehem, in Pennsylvania, or the society of the said brethren for civilizing the Indians, and promoting christianity (as as they are called, The Society of the United Brethren for propagating the Gospel among the Heathen) in trust and for the uses expressed in the said ordinance, including others, as mentioned in the said act of 27th July, 1787; and whereas it has been agreed that the plot of each of the towns should be estimated at 666 2-3 acres, so that each town and the reserved land adjoining shall make a tract of four thousand acres; and whereas the remnant of the said christian Indians are desirous of returning to their towns as speedily as possible, and the United Brethren, to facilitate this without loss of time, have offered to advance the ex-

penses of surveying the three tracts, on condition they be repaid, either in money or land:

Ordered, That the geographer of the United States survey, or cause to be surveyed, as speedily as possible, without interfering with the business he is sent to execute, the three tracts of Gnadnhutten, Schoenbrun, and Salem, on the Muskingum, including the reserved land adjoining each of the said towns, and return plots thereof to the board of treasury, that deeds may be issued for the same as is mentioned above; and that he also survey or cause to be surveyed, the intermediate spaces, if any there be, between the said three tracts, and return plots thereof, with an account of the expense, to the board of treasury; and that the said board, provided it can be done without infringing any contract they may have already made, convey the same to the said *United Brethren, or the Society of the said Brethren for propagating the Gospel among the Heathen*, upon their paying for the said intermediate space or spaces when the said survey shall be returned by the geographer, at the rate at which such lands are granted to others, and also the expenses attending the surveying and plotting the said spaces, deducting the sum advanced for surveying the three tracts; provided, that in case any of the abovementioned lands shall fall within the supposed bounds of the million of acres reserved for the late army, that the said bounds shall be understood to extend so far to the westward as to include the million of acres exclusive of the abovementioned lands.* (Emphasis added.)

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* See, in fulfilment of the donation made by this ordinance, the act of 1st June 1796; sec. 5, chap. 340, vol. 2.

Act of August 7, 1789

Stat. at Large 50 c. 7

CHAP. VIII.—*An Act to provide for the Government of the Territory Northwest of the river Ohio.*

Whereas in order that the ordinance of the United States in Congress assembled, for the government of the territory north-west of the river Ohio may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States.[a]

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[a] *An Ordinance for the Government of the Territory of the United States north-west of the river Ohio.*

Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grandchild, to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal parts among them their deceased parents' share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. —And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be (being of full age) and attested by three witnesses;—and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such con-

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in all cases in which the said ordinance, any information is to be given, or communication

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veyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts and registers shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, St. Vincent's, and the neighbouring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress: he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed from time to time by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office: it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months, to the secretary of Congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour.

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress, from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same,

made by the governor of the said territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said, governor to give such information and to make such communication to the

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below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrate and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same: After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof—and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly; provided that for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature; provided that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and in either case, shall likewise hold in his own right, in fee simple, two hundred acres of land within the same: provided also, that a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold

President of the United States, and the President shall nominate, and by and with the advice and consent of the

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and two years residence in the district shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected, shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless soonor removed by Congress; and three of whom to be a quorum: and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and, when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue and dissolve the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take

Senate, shall appoint all officers which by the said ordinance were to have been appointed by the United States in Congress assembled, and all officers so appointed shall be commissioned by him; and in all cases where the

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an oath or affirmation of fidelity, and of office; the governor before the president of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who hall have a seat in Congress, with a right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory: to provide also for the establishment of States, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact between the original States, and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

ART. I. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

ART. II. The inhabitants of the said territory, shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere

United States in Congress assembled, might, by the said ordinance, revoke any commission or remove from any office, the President is hereby declared to have the same powers of revocation and removal.

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with, or affect private contracts or engagements, bona fide, and without fraud previously formed.

ART. III. Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their land and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and frieidship with them.

ART. IV. The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein, as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory, shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress, according to the same common rule and measure, by which apportionments thereof shall be made on the other States, and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on land the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those

SEC. 2. *And it be further enacted*, That in case of the death, removal, resignation, or necessary absence of the governor of the said territory, the secretary thereof shall be, and he is hereby authorized and required to execute

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of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ART. V. There shall be formed in the said territory, not less than three, nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western State in the said territory, shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn from the Wabash and Post Vincents due north to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: Provided however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government: Provided the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

ART. VI. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in punishment of crimes, whereof the party shall have been duly convicted: Provided always, that any person escaping into the same, from whom labour or service is lawfully claimed in any one of the original States, such fugi-

all powers, and perform all the duties of the governor, during the vacancy occasioned by the removal, resignation or necessary absence of the said governor.[a]

APPROVED, August 7, 1789.

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tive may be lawfully reclaimed, and conveyed to the person claiming his or her labour or service as aforesaid.

Done by the United States in Congress assembled, the thirteenth day of July, in the year of our Lord one thousand seven hundred and eighty-seven, and of their sovereignty and independence the twelfth.

WILLIAM GRAYSON, *Chairman.*

CHARLES THOMSON, *Secretary.*

(*a*) The States of Ohio, Indiana, Illinois, and Michigan, were, after the enactment of this law, formed out of part of "The Territory of the United States, northwest of the river Ohio," and became members of the federal Union.

OHIO was established as a State April 30, 1802. INDIANA was admitted into the Union December 11, 1816. ILLINOIS was admitted into the Union December 3, 1818. MICHIGAN was admitted into the Union January 26, 1837.

Act of May 5, 1792

1 Stat. at Large 266 c. 30

CHAP. XXX.—*An Act authorizing the grant and conveyance of certain Lands to John Cleves Symmes, and his Associates.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be and he hereby is authorized and empowered to issue letters patent in the name and under the seal of the United States, thereby granting and conveying to John Cleves Symmes and his associates, and to their heirs and assigns, in fee simple, such number of acres of land as the payments already made by the said John Cleves Symmes, his agents or associates, under their contract of the fifteenth day of October one thousand seven hundred and eighty-eight, will pay for, estimating the lands at two thirds of a dollar per acre, and making the reservations specified in the said contract.

SEC. 2. *And be it further enacted*, That the President be and he hereby is further authorized and empowered, by letters patent as aforesaid, to grant and convey to the said John Cleves Symmes and his associates and to their heirs and assigns in fee simple one other tract of one hundred and six thousand eight hundred and fifty-seven acres with the reservations as aforesaid: *Provided*, That the said John Cleves Symmes, or his agents or associates, or any of them, shall deliver to the Secretary of the Treasury, within six months, warrants which issued for army bounty rights sufficient for that purpose, according to the provision of the resolves of Congress of the twenty-third of July, and second of October, one thousand seven hundred and eighty-seven; but in case so many warrants should not be delivered, then the letters patent last aforesaid be given for such number of acres, as shall be in proportion to the warrants so delivered.

SEC. 3. *And be it further enacted*, That the President be and he is hereby authorized and empowered, by letters patent as aforesaid, to grant and convey unto the said John Cleves Symmes and his associates, their heirs and assigns, in trust for the purpose of establishing an academy and other public schools and seminaries of learning, one complete township, conformably to an order of Congress of the second of October, one thousand seven hundred and eighty-seven, made in consequence of the application of the said John Cleves Symmes, for the purchase of the tract aforesaid.

SEC. 4. *And be it further enacted*, That the several quantities of land, to be granted and conveyed as aforesaid, shall be included and located within such limits and lines of boundary, as the President may judge expedient, agreeably to an act passed the twelfth day of April one thousand seven hundred and ninety-two, "for ascertaining the bounds of a tract of land purchased by John Cleves Symmes."

APPROVED, May 15th, 1792.

Act of May 6, 1792

Laws of the United States—Relating to the Public Lands 373 (1828)

An act authorizing the grant and conveyance of certain lands to John Cleves Symmes and his associates.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is, authorized and empowered to issue letters patent, in the name and under the seal of the United States, thereby granting and conveying to John Cleves Symmes and his associates, and to their heirs and assigns, in fee simple, such number of acres of land as the payments already made by the said John Cleves Symmes, his agents, or associates, under their contract of the fifteenth day of October, one thousand seven hundred and eighty-eight, will pay for, estimating the lands at two-thirds of a dollar per acre, and making the reservations specified in the said contract.

SEC. 2. *And be it further enacted*, That the President be, and he hereby is, further authorized and empowered, by letters patent as aforesaid, to grant and convey to the said John Cleves Symmes and his associates, and to their heirs and assigns, in fee simple, one other tract of one hundred and six thousand eight hundred and fifty-seven acres, with the reservations as aforesaid: *Provided*, That the said John Cleves Symmes, or his agents or associates, or any of them, shall deliver to the Secretary of the Treasury, within six months, warrants which issued for army bounty rights (‡), sufficient for that purpose, according to the provision of the resolves of Congress of the twenty-third of July, § and second of October, one thousand seven hundred and eighty-seven; but in case so many warrants should not be delivered, then the letters patent, last aforesaid, to be given for such number of acres as shall be in proportion to the warrants so delivered.

SEC. 3. *And be it further enacted*, That the President be, and he is hereby authorized and empowered, by letters patent as aforesaid, to grant and convey unto the said John Cleves Symmes, and his associates, their heirs and assigns, in trust, for the purpose of establishing an academy, and other public schools and seminaries of learning, one complete township, conformably to an order of Congress of the second of October, one thousand seven hundred and eighty-seven, made in consequence of the application of the said John Cleves Symmes, for the purchase of the tract aforesaid.*

SEC. 4. *And be it further enacted*, That the several quantities of land, to be granted and conveyed as aforesaid, shall be included and located within such limits and lines of boundary as the President may judge expedient, agreeably to an act passed the twelfth day of April, one thousand seven hundred and ninety-two, "for ascertaining the bounds of a tract of land purchased by John Cleves Symmes."†(‡)

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†‡ The patent granted by virtue of this act contains 311,682 acres, of which 248,540 are the property of the grantees, and the residue consists of the various reservations and grants for public purposes specified in the act.

Act of June 1, 1796

1 Stat. at Large 490 c. 56

CHAP. XLVI.—*An Act regulating the grants of land appropriated for Military services, and for the Society of the United Brethren, for propagating the Gospel among the Heathen.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Surveyor General be, and he is hereby required, to cause to be surveyed, the tract of land beginning at the northwest corner of the seven ranges of townships, and running thence fifty miles due south, along the western boundary of the said ranges; thence due west to the main branch of the Scioto river; thence up the main branch of the said river, to the place where the Indian boundary line crosses the same; thence along the said boundary line, to the Tuscaroras branch of the Muskingum river, at the crossing place above Fort Lawrence; thence up the said river, to the point, where a line, run due west from the place of beginning, will intersect the said river; thence along the line so run to the place of beginning; and shall cause the said tracts to be divided into townships of five miles square, by running, marking and numbering the exterior lines of the said townships, and marking corners in the said lines, at the distance of two and one half miles from each other, in the manner directed by the act, intituled "An act providing for the sales of the lands of the United States, in the territory northwest of the river Ohio, and above the mouth of Kentucky river;" and that the lands above described, except the salt springs therein, and the same quantities of land adjacent thereto, as are directed to be reserved with the salt springs, in the said recited act, and such tracts within the boundaries of the same, as have been heretofore appropriated by Congress, be, and they are hereby, set apart and reserved for the purposes herein after mentioned.

SEC. 2. *And be it further enacted*, That the said land shall be granted only in tracts containing a quarter of the township to which they belong, lying in the corners thereof; and that the Secretary of the Treasury shall, for the space of nine months, after public notice in the several states and territories, register warrants for military services, to the amount of any one or more tracts, for any person or persons holding the same; and shall immediately after the expiration of the said time, proceed to determine, by lot, to be drawn in the presence of the secretaries of state and of war, the priority of location of said registered warrants; and the person or persons holding the same, shall severally make their locations, after the lots shall be proclaimed, on a day to be previously fixed in the before mentioned notice; in failure of which, they shall be postponed in locating such warrants, to all other persons holding registered warrants: And the patents for all lands located under the authority of this act, shall be granted in the manner directed by the before mentioned act, shall be granted in the manner directed by the before mentioned act, without requiring any fee therefor.

SEC. 3. *And be it further enacted*, That after the time limited for making the locations, as aforesaid, any person or persons holding warrants, of the before mentioned description, sufficient to cover any one or more tracts, as aforesaid, shall be at liberty to make their locations, on any tract or tracts not before located.

SEC. 4. *And be it further enacted*, That all the lands set apart by the first section of this act, which shall remain unlocated on the first day of January, in the year one thousand eight hundred, shall be released from the said reservation, and shall be at the free disposition of the United States, in the manner as any other vacant territory of the United States. And all warrants or claims for lands on account of military services, which shall not, before the day aforesaid, be registered and located, shall be forever barred.

SEC. 5. *And be it further enacted*, That the said surveyor general be, and he is hereby, required to cause to be surveyed three several tracts of land, containing *four thousand acres each*, at Shoenbrun, Gnadenhutten, and Salem; being the tracts formerly set apart, by an ordinance of Congress of the third of September, one thousand seven hundred and eighty-eight, for the *society of United Brethren for propagating the gospel among the heathen*; and to issue a patent or patents for the said three tracts to the said society, in trust, for the uses and purposes in the said ordinance set forth. (Emphasis added.)

SEC. 6. *And be it further enacted*, That all navigable streams or rivers within the territory to be disposed of, by virtue of this act, shall be deemed to be and remain public highways. And that, in all cases, where the opposite banks of any stream not navigable shall belong to different persons, the stream and the bed thereof shall be common to both.

APPROVED, June 1, 1796.

Consent of the President to the Modification of John C. Symmes's Petition, September 30, 1794

Laws of the United States—Relating to the Public Lands 376 (1828)

Consent of the President to the above petition.

To all persons to whom these Presents shall come, George Washington, President of the United States of America, sends Greeting:

Whereas, in pursuance of certain resolutions of the United States, in Congress assembled, bearing date respectively the twenty-third and twenty-seventh days of July, and the twenty-third day of October, one thousand seven hundred and eighty-seven, or some of them, a contract was duly made and executed between Samuel Osgood, Walter Livingston, and Arthur Lee, esquires, commissioners of the Board of the Treasury of the United States, of the first part, Jonathan Dayton and Daniel Marsh, esquires, of the second part, and John Cleves Symmes, esquire, of the third part, for the purchase and grant of a certain tract of land in the Western country, adjoining the river Ohio, beginning on the bank of the same river at a spot exactly twenty miles distant along the several courses of the same from the place where the Great Miami empties itself into the said river Ohio; from thence, extending down the said river Ohio, along the several courses thereof, to the Great Miami river; thence, up the said river Miami, along the several courses thereof, to a place whence a line drawn due East will intersect a line drawn from the place of beginning aforesaid, parallel with the general course of the Great Miami river, so as to include one million of acres within those lines and the said rivers; and from that place, up the said Great Miami river, extending along such lines, to the place of beginning, containing as aforesaid one million of acres, to be granted to the said John Cleves Symmes and his associates, their heirs and assigns, upon certain terms

and conditions, as in and by the said contract bearing date the fifteenth day of May, one thousand seven hundred and eighty-eight, reference being thereunto had will fully appear. And whereas by an act of Congress of the United States bearing date the twelfth day of April, one thousand seven hundred and ninety-two, entitled an act for ascertaining the bounds of a tract of land purchased by John Cleves Symmes. The President of the United States was authorized, at the request of the said John Cleves Symmes, to alter the said contract made between the said late Board of the Treasury, and the said John Cleves Symmes, in such manner that the said tract may extend from the mouth of the Great Miami to the mouth of the Little Miami, and be bounded by the river Ohio on the South, by the Great Miami on the West, by the Little Miami on the East, and by a parallel of latitude on the North, extending from the Great Miami to the Little Miami, so as to comprehend the proposed quantity of one million of acres: *Provided*, That the Northern limits of the said tract shall not interfere with the boundary line established by the treaty of Fort Harmar between the United States and the Indian nations: *And provided also*, That the President reserve to the United States such lands at or near fort Washington, as he may think necessary for the accommodation of a garrison at that fort, as in and by the said act, reference thereunto had, will more fully appear. And whereas the said John Cleves Symmes, by a certain instrument of writing under his hand and seal, bearing date the day next before the date of these presents, did request the President of the United States that the contract so as aforesaid made by the said Commissioners of the late Board of Treasury on behalf of the United States, of the one part, and him, the said John Cleves Symmes, by his said agents Jonathan Dayton and Daniel Marsh, on behalf of himself and his associates, of the other part, might be altered, so as to include only the last mentioned tract, butted, bounded, and described, as in the said act of the Congress aforesaid

is set forth, subject to the same conditions and with the same limitations and reservations as in the said contract and act of Congress are expressed, and also subject to the reservation of the quantity of fifteen acres, being for the accommodation of Fort Washington and the garrison thereof, and including the said fort in such part of the said tract as the President of the United States should find convenient and suitable for military purposes and should cause to be located therefor; and further subject to the reservation of one mile square within four miles of the mouth of the Great Miami, to be located by such person as the President of the United States shall appoint for that purpose: *Provided*, That a law be passed within the space of two years from the date thereof to authorize the last mentioned reservation and location, and that the President of the United States should appoint a person to make such location within the space of one year after such law shall be passed: *And provided, also*, That the same law shall authorize the President to make, and the President shall make and execute to the said John Cleves Symmes and his associates, and to his and their heirs and assigns, within the said last mentioned term of one year, a grant and release of the aforesaid fifteen acres reserved for the use and accommodation of Fort Washington and the garrison thereof, and thereby did remise, release, and quit claim, unto the said United States, all his right, title, interest, claim, and demand whatever, in and to so much of the lands contained and included within the bounds and limits described in the said contract, as is not contained, or meant and intended to be contained and included within the bounds and limits secondly above mentioned, as in and by the said recited instrument, relation being thereunto had will appear. Now, know ye, in pursuance of the act of Congress aforesaid, and the said request of the said John Cleves Symmes, I have assented and by these presents do testify and declare my assent to an alteration of the said contract in manner following; that is to say: that the tract of land to be granted to the

said John Cleves Symmes, upon the same terms and conditions as in and by the said contract, made on the fifteenth day of October, one thousand seven hundred and eighty-eight, between Arthur Lee, Walter Livingston, and Samuel Osgood, Commissioners of the Board of Treasury, the said Daniel Marsh, and Jonathan Dayton, and the said John Cleves Symmes, were stipulated and agreed upon, shall extend from the mouth of the Great Miami to the mouth of the Little Miami, and shall be bounded by the river Ohio on the South, by the Great Miami on the West, by the Little Miami on the East, by a parallel of latitude on the North, extending from the Great Miami to the Little Miami, so as to comprehend one million of acres: *Provided*, That the Northern limits of the said tract shall not interfere with the boundary line established by the treaty of Fort Harmar between the United States and the Indian nations; and reserving out of the said tract the quantity of fifteen acres, being for the accommodation of Fort Washington and the garrison thereof, and including the said Fort, in such part of the said tract as the said President shall find convenient and suitable for military purposes, and shall cause to be located. Therefore, also reserving, out of each township in the said tract, the following lots, to wit: lot No. 16 for the purpose mentioned in the Land Ordinance, of the 20th May, 1785, lot No. 29 for the purposes of religion, and lots No. 8, No. 11, and No. 26, to be subject to the disposition of the Congress of the United States; and also reserving to the said United States, out of the said tract, the quantity of one square mile, within four miles of the mouth of the Great Miami, to be located by such person as the President of the United States shall appoint for that purpose: *Provided*, That a law be passed within the space of two years from the date of these presents, to authorize the last mentioned reservation and location; and that the President shall appoint a person to make such location, within the space of one year after such law shall be passed: *And provided, also*, That the same law shall

authorize the President to make, and the President shall make, and execute to the said John Cleves Symmes, and his associates, his and their heirs and assigns, a grant and release of the aforesaid fifteen acres reserved for the use and accommodation of Fort Washington and the garrison thereof.

In testimony whereof, I have caused these letters to be made patent, and the Seal of the United States to be hereunto affixed.

Given under my hand, at the City of Philadelphia, the thirtieth day of September, in the year of our Lord one thousand seven hundred and ninety four, and of the Independence of the United States of America, the nineteenth.

GEO. WASHINGTON.

[Copied from the Records in the General Land Office.]

Consent of the President to John C. Symmes's Patent, September 30, 1794

1 Laws of the United States 497 (1815)

J. C. SYMMES'S PATENT.—In the name of the United States of America, to all to whom these presents shall come:

Know ye, that whereas it appears to me, George Washington, president of the said United States, that John Cleves Symmes, in behalf of himself and his associates, in pursuance of a contract, made and executed on the fifteenth day of October, one thousand seven hundred and eighty-eight, between Arthur Lee, Walter Livingston, and Samuel Osgood, commissioners of the board of treasury, and Jonathan Dayton and Daniel Marsh, and the said John Cleves Symmes, hath paid into the treasury of the United States the sum of one hundred and sixty-five thousand six hundred and ninety-three dollars and forty-two cents, in certificates and warrants for military rights to lands: whereby, and by virtue of the act of the congress of the United States, entitled "An act authorizing the grant and conveyance of certain lands to John Cleves Symmes, and his associates," passed the fifth day of May, one thousand seven hundred and ninety-two, the said John Cleves Symmes and his associates are become entitled to receive from the United States letters patent, granting and conveying to him and them, two hundred and forty-eight thousand five hundred and forty acres of land: and whereas, in and by the said contract, it was stipulated and agreed, by and between the said Arthur Lee, Walter Livingston, and Samuel Osgood, commissioners on the part of the United States, and the said Jonathan Dayton and Daniel Marsh, and the said John C. Symmes, that out of each township, which should fall within the grant to be made to the said John Cleves Symmes and his associates, a reservation should be made to the United States, of the four lots, marked 8, 11, 26, and 29, for such

purposes as shall, by the congress of the United States, be directed; and lot No. 16, for the maintenance of public schools, the same being pursuant to the regulations contained in an ordinance of the United States in congress assembled, bearing date the twentieth day of May, one thousand seven hundred and eighty-five: * and whereas, in and by the aforesaid act of congress of the United States, passed the fifth day of May, one thousand seven hundred and ninety-two, the president of the United States was authorized and empowered by letters patent, to grant and convey unto the said John Cleves Symmes, and his associates, their heirs, and assigns, in trust, for the purpose of establishing an academy, and other public schools and seminaries of learning, one complete township, conformably to an order of congress, made the second day of October, one thousand seven hundred and eighty-seven: and whereas, it appears expedient to reserve to the United States, out of the tract of land hereby intended to be granted, the quantity of fifteen acres of land, for the accommodation of fort Washington and the garrison thereof, including the said fort; and also, a quantity of land, equal, to one mile square, at or near the mouth of the Great Miami river, to be located as hereafter mentioned.

Now these presents testify, that I, the said George Washington, president of the United States, in the name and by the authority of the said United States, in consideration of the premises, in pursuance of the said act of the congress of the United States, passed the fifth day of May, 1792, and by virtue of the authority thereby in me reposed, have granted and confirmed, and by these presents do grant and confirm, unto the said John Cleves Symmes and his associates, and to his and their heirs and assigns, all that tract of land, beginning at the mouth of the Great Miami river, and extending from thence along the river Ohio, to the mouth of the Little Miami river, bounded on the south by the said river Ohio, on the west by the said Great Miami river, on the east by the said

little river Miami, and on the north by a parallel of latitude, to be run from the said Great Miami river to the said Little Miami river, so as to comprehend the quantity of three hundred and eleven thousand six hundred and eighty-two acres of land, with the appertenances, reserving to the United States, out of the said tract, the quantity of fifteen acres of land, for the accommodation of fort Washington and the garrison thereof, including the space of ground occupied by the said fort, to be located in such part of the said tract, and by such person, as the president of the United States shall direct; and also, reserving out of the said tract, a quantity of land equal to one mile square, at or near the mouth of the said Great Miami river, to be located by such person as the president of the United States shall appoint for the purpose: provided, that a law be passed by the congress of the United States to authorize the same, within the space of two years from and after the date of these presents; and that the president of the said United States shall appoint a person to make such location, within one year after such law shall be passed, and not otherwise: and provided also, that the same law shall authorize the president of the United States to make, and the president of the United States shall make, and execute to the said John Cleves Symmes and his associates, their heirs, and assigns, a grant and release of the aforesaid fifteen acres, reserved for the use and accommodation of fort Washington and the garrison thereof; and also reserving to the said United States, out of each township, contained in the said tract, the following lots, viz: lot No. 16, for the purposes mentioned and specified in the ordinance of the United States in congress assembled, passed on the twentieth day of May, one thousand seven hundred and eighty-five; lot No. 29, for the purposes of religion; and lots No. 11, No. 8, and No. 26, for such purposes as the congress of the United States shall hereafter direct: to have and to hold the said tract of land, bounded and described as aforesaid, with the appertenances, to the said John Cleves

Symmes and his associates, his and their heirs and assigns, to his and their proper use and behoof forever, according to their respective rights and interest therein; upon this condition, however, and not otherwise, that the said John Cleves Symmes and his associates, his and their heirs and assigns, shall and do cause the said parallel of latitude, forming the northern boundary of the tract herein before described, to be truly run, surveyed, and laid out, and return thereof made to the secretary of the treasury, for the time being, within the space of five years, from and after the date of these presents; otherwise, as well these presents, as the estate hereby granted, shall cease and become void: which parallel of latitude shall be run from certain points or stations, which shall have been ascertained and fixed by Israel Ludlow, upon the said Great and Little Miami rivers, according to a survey by him made, of the courses of the said rivers, under the direction of the department of the treasury, and heretofore certified to that department, by a certificate, bearing date the twenty-fourth day of March, seventeen hundred and ninety-four, and in pursuance of the said act of the congress of the United States, herein beforementioned, passed the fifth day of May, one thousand seven hundred and ninety-two: it is hereby declared, that one complete township or tract of land, of six miles square, to be located with the approbation of the governor, for the time being, of the territory northwest of the river Ohio, and in the manner, and within the term of five years aforesaid, as nearly as may be, in the centre of the tract of land herein before granted, hath been and is granted, and shall be holden in trust, to and for the sole and exclusive intent and purpose of erecting and establishing therein an academy and other public schools and seminaries of learning, and endowing and supporting the same, and to and for no other use, intent, or purpose whatever.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand, at the city of Philadelphia, the thirtieth day of September, in the year of our Lord one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

GEO. WASHINGTON.

By the president,

EDMUND RANDOLPH.

Letter by President Washington to Commissioners Negotiating Indian Treaties

4 American State Papers, "Indian Affairs" Vol. 1, Serial Set No. 7 (ed. Lowrie & Clark 1832)

Instructions to the Commissioners for treating with the Southern Indians.

To BENJAMIN LINCOLN, CYRUS GRIFFIN, and DAVID HUMPHREYS, Esq'rs.

Commissioners Plenipotentiary for negotiating and concluding treaties of peace with the independent tribes or nations of Indians within the limits of the United States, south of the river Ohio.

GENTLEMEN:

The United States consider it as an object of high national importance, not only to be at peace with the powerful tribes or nations of Indians south of the Ohio, but, if possible, by a just and liberal system of policy, to conciliate and attach them to the interests of the Union.

In order, therefore, that you may be possessed of all the information relative to the Southern Indians contained in the public documents, you have herewith delivered to you, copies of the following papers, to wit:

The several statements which have been made on the subject from the war office, to which are added, copies of the treaties which have been made by the United States with the Cherokees, Chickasaws, and Choctaws, and the commissioners' reports thereon; the proceedings and reports of James White, Esq. superintendent for the Southern district; the reports of Messrs. Winn and Martin, temporary superintendents; the resolves of Congress, under which commissioners have been appointed by the States of North Carolina, South Carolina, and Georgia, and the said commissioners' reports; and, also, certain

papers transmitted by Georgia against Joseph Martin, one of the aforesaid temporary commissioners.

The first great object of your mission is to negotiate and establish peace between the State of Georgia and the Creek nation. The whole nation must be fully represented, and solemnly acknowledged to be so by the Creeks themselves.

You will find the ostensible, and probably the real cause of the hostilities between Georgia and the Creeks, to consist in a difference of judgment of three treaties, stated to have been made between the said parties, to wit: At Augusta, in 1783; at Galphinton, in 1785; and at Shoulderbone, in 1786; copies of which you have herewith delivered to you.

It is a circumstance of the highest consequence, to investigate thoroughly all the facts under which the said treaties were made. The official papers will afford you great information on this subject.

On the one side, the objections against the justice of said treaties, are stated in the several communications of Mr. McGillivray, and the communications of the Lower Creeks to Mr. White, the superintendent.

On the other side, the statement made by the Legislature of Georgia, contains the reasons in support of the treaties.

The opinion of the commissioners of the United States of the treaty of Galphinton, is contained in their reports; and the communications of James White, Esq. the superintendent, will show his judgment on the case.

But, in addition to all these written evidences, it may be proper, in order that the investigation be conducted with the most perfect impartiality, to have such viva voce testimony as can be obtained.

For this purpose, you will request the Governor and Legislature of Georgia, if in session, to authorize such

person or persons to attend the treaty as he or they may think proper, in order to give you such information as you may request, from time to time, of the transactions relative to said treaties.

You will also endeavor to ascertain the facts relative to the said treaties, from the Creeks.

And you will further endeavor to obtain information, on oath, of the manner in which the said treaties were held, from such unprejudiced respectable private characters, who were present at the said treaties, as you shall be able to find.

The main points to be ascertained, are—

1st. Whether all the lands belonging to the Upper and Lower Creeks are the common property of the whole nation? Or,

2d. Were the lands stated to have been ceded to Georgia by the three treaties, or either of them, acknowledged by the Upper Creeks to be the sole property of the Lower Creeks?

3d. Were the acknowledged proprietors of the lands, stated to have been ceded to Georgia, present, or fully represented, at the said three treaties?

4th. Did the Creeks, present at the said treaties, act with a full understanding of the cessions they are stated to have made?

5th. Were the said treaties and cessions freely made on the part of the Creeks, uninfluenced by any threats or implication of force?

These circumstances, and all others connected therein, must be critically examined into, in order that you may form your judgment on the said treaties with the greatest accuracy.

If the result of your investigation should be, that the said three treaties, and the cessions of land therein con-

tained, were made by a full and authorized representation of the Creek nation, or that the cessions of land was obtained with the full understanding and free consent of the acknowledged proprietors, and that there were no circumstances of unfairness or constraint of any sort, used to induce the Creeks to make the cessions to Georgia, in this case precisely, you are to insist on a formal renewal and confirmation *of said cessions to Georgia*, or such parts thereof as you shall find just. If the Creeks, after hearing all your arguments for the renewal of the said treaties, so far as the same may respect the confirmation of such parts of the cessions of land contained therein, as you shall have adjudged just and equitable, should obstinately refuse to confirm the same to Georgia, then you are to inform them that the arms of the Union will be called forth for the protection of Georgia, in the peaceable and just possession of said lands; and in case the Creeks attempt any molestation or injury to Georgia, that they will be deemed the enemies of the United States, and punished accordingly.

But if it should result from your inquiries, that the said treaties and cessions were obtained, on the part of Georgia, under such circumstances as to preclude the interference of the United States, consistently with their justice and dignity, you are not to urge or persuade the Creeks to a renewal or confirmation thereof.

It is, however, to be observed, that Georgia has proceeded on the principle that the cession stated to have been made at Augusta, in 1783, was fairly obtained; and that the said State has surveyed and divided the lands between the Ogechee and Oconee among certain descriptions of its citizens; that the said citizens have settled and planted on said lands in great numbers. Should, therefore, the result of your investigation be unfavorable to the claims of Georgia, it would be highly embarrassing to that State to relinquish the said lands to the Creeks.

Hence it will be an important accommodation to Georgia to obtain from the Creeks a regular conveyance of the said lands lying between the Ogechee and Oconee.

To accomplish this object, therefore, you are specially required to use your highest exertions with the Creeks. On your success materially depends the internal peace of Georgia, and probably its attachment to the General Government of the United States.

If the prejudices of the Creeks against the United States are not too deeply rooted, it is presumed that such advantages to that nation can be stipulated as to induce them not only to relinquish to Georgia the lands in question, but to attach them sincerely and permanently to the United States.

The disputed lands being entirely despoiled of their game by the settlements, are therefore no longer valuable to the Creeks as hunting grounds. If they have not been fairly purchased of the real proprietors by Georgia, it ought to be done. In case the Creeks, therefore, would be willing to make a proper conveyance for a given sum, you will stipulate that the same shall be paid by Georgia at a certain period, or, in case of failure, by the United States.

While negotiating the price to be given for the said land, you will have due regard to the sums which Georgia actually paid at the treaty of Augusta, to the present value of the lands as hunting grounds, and to the other considerations hereafter specified.

In this part of the negotiation, it would be desirable that the persons who may be appointed by the Governor or Legislature of Georgia to attend the treaty, should concur with you as to the sum which, in case of purchase, shall be stipulated to be given.

In addition to the purchase money for the lands, and for further great purpose of attaching the Creeks to the United States, provided the same, in your mature judg-

ments, should be necessary, you are hereby empowered to make the following stipulations:

1st. A secure port to the Creeks, or their head men, on the Altamaha, St. Mary's, or any place between the said rivers, into which, or from which, the Creeks may import or export the articles of merchandise necessary to the Indian commerce, on the same terms as the citizens of the United States. The number of arms and quantity of ammunition, however, to be regulated by the quantity that shall be regarded as necessary for the hunters.

If any apprehension should be entertained on the part of the Creeks on account of the safety of the goods which they might so import or export, it may be stipulated that the same should be protected by a company of the regular troops of the United States.

The trade of the Creeks is said at present to be engrossed by a company of British merchants, stationed at one of the Bahama islands, who have connected Mr. McGillivray with them as a partner. The Spaniards have permitted some of the rivers which empty into the Gulf of Mexico to be the channel of this trade for a certain number of years. Some impediments or impositions of duties appear to have disgusted Mr. Gillivray with the Spaniards, or with the communication, and renders him desirous of a port in the United States. If these circumstances could be the means of breaking his connexion with the Spanish colonies, it would be wise policy to afford the Creeks a port, and to protect them in every thing relative thereto.

2ndly. Gifts in goods, or money to some, and, if necessary, honorary military distinctions to others, of the influential chiefs.

The presents will be regulated by your judgment. The idea of military distinction arises from the information that Mr. McGillivray possesses a commission of Colonel or Lieutenant Colonel from the King of Spain.

If he could be induced to resign that commission by the offer of one a grade higher, the offer ought to be made and substantiated, on his taking a solemn oath of allegiance to the United States.

Mr. McGillivray is stated to possess great abilities, an unlimited influence over the Creek nation, and part of the Cherokees. It is an object worthy of considerable exertion to attach him warmly to the United States.

The measure could be attempted and urged with great propriety, as it respects his fidelity to the Creeks, and the continuance of his own importance in that nation.

The United States do not want the Creek lands; they desire only to be friends and protectors of the Creeks, and to treat them with humanity and justice.

In case you should be satisfied of his compliance with your desires, you will deliver him the presents which are particularly designated for him, and also give him assurances of such pecuniary rewards from the United States as you may think reasonable, consequent on the evidence of his future favorable conduct.

3rdly. If you should find the measure necessary, in order to accomplish the before recited objects, you will further stipulate a solemn guarantee of the United States to the Creeks of their remaining territory, to be supported, if necessary, by a line of military posts.

This measure will, most probably, be highly satisfactory to the Creeks, as it will entirely prevent any attempts to purchase any part of their lands, and it will, at the same time, impress them with the moderation and justice of the General Government.

If these offers, with all the benefits resulting therefrom, should be insufficient to induce the Creeks to agree, voluntarily, to relinquish the disputed lands between the Ogeechee and Oconee rivers, you cannot, with propriety, make a tender of more favorable conditions.

In this event, however, you may endeavor to conclude a treaty, and establish therein a temporary boundary, making the Oconee the line—to stipulate the secure port, and the pecuniary and honorary considerations before recited.

You will establish the principle, in case of concluding a treaty, that the Creeks, who are within the limits of the United States, acknowledge themselves to be under the protection of the United States of America, and of no other sovereign whosoever; and, also, that they are not to hold any treaty with an individual State, nor with individuals of any State.

You will also endeavor, without making it an ultimatum, to establish such direct trade as the Government of the Union shall authorize. This point, however, is to be managed with the greatest delicacy, for the before recited reasons.

In the general objects of the restoration of prisoners, negroes, &c. you will conform to the treaties of Hopewell with the Cherokees, Chickasaws, and Choctaws.

You will, also, endeavor to obtain a stipulation for certain missionaries, to reside in the nation, provided the General Government should think proper to adopt the measure. These men to be precluded from trade, or attempting to purchase any lands, but to have a certain reasonable quantity, per head, allowed for the purpose of cultivation. *The object of this establishment would be the happiness of the Indians, teaching them the great duties of religion and morality, and to inculcate a friendship and attachment to the United States.* (Emphasis added.)

If, after you have made your communications to the Creeks, and you are persuaded that you are fully understood by them, they should refuse to treat and conclude a peace, on the terms you propose, it may be concluded that they are decided on a continuance of acts of hostility,

and that they ought to be guarded against as the determined enemies of the United States.

In this case, you will report such plans, both for defensive and offensive measures, so as best to protect the citizens of the United States on the frontiers, from any acts of injury or hostility of the Creeks. Although the policy of attaching influential chiefs by pecuniary or honorary considerations, may not be doubted, yet it has been otherwise, with respect to making presents to the commonalty among the Indians. In case, therefore, you find that the Creeks are willing to relinquish the land between the Ogechee and Oconee, on further payments for the same, you will endeavor to stipulate, that the mass of the goods you have in charge for the treaty, should be received by the Indians as part, or the whole of the consideration for the conveyance of the said lands, as you shall judge proper.

Messrs. Osborne and Pickens have, in their report of the 30th June last, stated, that they have agreed to hold a general treaty with the Creeks at the Rock Landing, on the Oconee river, in the State of Georgia, on the 15th of September next ensuing; you will make every exertion to be there at that time. Immediately on your arrival at Savannah you will arrange the transportation by land or water, of the goods and provisions under your direction, to the place of treaty, or towards the same, so as to arrive with all possible expedition. At the same time, you will despatch expresses to the Governor, notifying him of your commission and arrival, and also to Messrs. Osborne and Pickens; and as soon after as possible, you will repair to the place affixed for treating. The troops and the goods may follow agreeably to your directions. Perhaps you may change the place of treaty, to some place to which your goods might be transported with greater facility than the Rock Landing on the Oconee river.

But, notwithstanding your greatest exertions, it may happen that your arrival may be so retarded, that Messrs.

Pickens and Osborne may have held a treaty, and the Indians may have departed to their own country.

In this case you will carefully enquire, whether there were present at the treaty, a full representation of the whole Creek nation, and particularly Mr. McGillivray, and whether the treaty was made under such circumstances as to be consistent with the justice of the United States, and conformable to the spirit of their instructions. If so, you will confirm and ratify the same, in as full a manner as if you had been actually present. But, if an inadequate representation only should have been present, or any circumstances should have been adopted, of which the United States could not with justice and dignity approve, in this case you will use your best endeavors to persuade the Creeks to attend a new treaty, at such place and at such time as you may judge proper. You will observe the same conduct to collect the Creeks, in case it should appear that they, from any circumstances, are disinclined to attend generally the treaty on the 15th of September, or provided your arrival should be posterior to that period, and you shall learn they did not attend, agreeably to the invitation of Messrs. Pickens and Osborne.

During your negotiations with the Creeks, you will endeavor to ascertain the following points:

1st. The number of warriors in the whole nation, including Upper and Lower Creeks and Seminoles.

2d. Whether they are armed with common and rifle muskets, or in any other manner, and how furnished with ammunition.

3d. The number of each division of Upper Creeks, Lower Creeks, and Seminoles.

4th. The number of women and children and old men in each district.

5th. The number of towns in each district.

6th. The names, characters, and residence, of the most influential chiefs; and, as far as the same may be, their grades of influence.

7th. The kinds of government, if any, of the towns, districts, and nations.

8th. Whether they are hunters only, or whether they cultivate and possess cattle, if so, the degree of cultivation and number of cattle.

9th. The usual hunting grounds of the whole nation and their districts.

10th. The kinds and value of furs taken annually, and how disposed of.

11th. The amount of the European goods annually consumed.

12th. Whether ginseng abounds in that country; if so, whether it is gathered in any considerable quantities.

13th. To ascertain the nature of the country west from Georgia to the Mississippi; whether mountainous, hilly, level, or abounding with low grounds and morasses—the nature of the soil and growth.

14th. To ascertain particularly, how far northward the waters of the Mobile, Apalachicola, and Altamaha rivers, are navigable for boats, and the nearest land portages from the northern navigable streams of said rivers, to the southern navigable waters or streams of the Tennessee river.

The accurate knowledge of this subject is of considerable importance, but the inquiries thereto should be circuitously conducted.

15th. To ascertain with great precision the nature of the connexion of the Creeks with the Spaniards, and, if practicable, to obtain copies of any treaties between them; whether the predominating prejudices of the Creeks are

in favor, or against the Spaniards, and particularly the state of Mr. McGillivray's mind on this subject.

16th. You will endeavor, as far as your opportunities will admit, to ascertain similar facts relative to the Cherokees, Chickasaws, and Choctaws, as are contained in the before recited requests relative to the Creeks.

In case of your concluding a treaty with the Creeks, and it should be your judgment that a line of military posts would be necessary to the due observance thereof, and also as a security of the peace of the Cherokees, you will report a plan for the stations which should be taken, and the number of troops which should occupy each.

The people who are settled on Cumberland river have just cause of complaints against the Creeks, who have, during the present year, murdered several families within that district. The Creeks can have no cause of complaint against that settlement.

This circumstance is to be strongly stated to the Creeks, and in case of a continuance of their murders, the vengeance of the Union is to be denounced against them.

The peculiar case of the Cherokees seems to require the immediate interposition of the justice of the United States. But as that nation of Indians are principally resident within the territory claimed by North Carolina, which is not a member of the present Union, it may be doubted whether any efficient measures in favor of the Cherokees could be adopted immediately.

By the public newspapers it appears, that, on the 16th June last, a truce was concluded with the Cherokees by Mr. John Steele, on behalf of the State of North Carolina. In this truce a treaty was stipulated to be held as soon as possible; and in the mean time, all hostilities should cease on both sides.

In the event of North Carolina adopting the constitution of the United States, it will incumbent on the Gen-

eral Government to take every wise measure to carry into effect the substance of the treaty of Hopewell; in the mean time, you will send a message to the Cherokees, stating to them the difficulties arising from the local claims of North Carolina, as far as the same may be proper. That, when these shall be removed, the United States will convince the Cherokees of their justice and friendship.

You will also transmit a message to the whites in the neighborhood of the Cherokees, enjoining an observance of the truce made by Mr. Steel, until a general treaty shall take place, when justice shall be administered to all parties.

The two Cherokees who have lately come to this city, with their conductor, Mr. Bennet Ballew, are to go under your direction to the place of treaty. Good policy requires that they should be kindly treated, although there are suspicions that the conduct of Bennet Ballew has not been very proper with respect to the lands of the Cherokees. You will endeavor to ascertain his real character and designs, and make such use of him as you shall think proper. You have delivered to you copies of the papers which Mr. Ballew presented from the Cherokees.

The treaties with the Choctaws and Chicksaws will inform you of the stipulations of the United States to extend trade to those nations. You will report a plan for carrying into effect the said stipulations, and you will also transmit to the said nations messages containing assurances of the continuance of the friendship of the United States, and of the intentions of the General Government of extending the trade to them, agreeably to the treaties of Hopewell. You will have regular invoices of all articles delivered to you for the proposed treaty, and you will keep fair accounts of all your disbursements, which you will regularly settle at the treasury of the United States.

And in all cases where the same may be proper, consistently with the secrecy necessary to be observed, the delivery of the goods ought to be attested by the commissioned officers of the troops, who should attend the commissioners.

You will also keep a regular journal of your transactions, and report the same.

It is presumed that you will conduct all your disbursements by that proper economy so necessary to be observed in all transactions of the General Government. You will learn, by the papers delivered to you, that certain goods were left by the commissioners after the treaties at Hopewell, in the commencement of the year 1786. It is probable that these goods may have been delivered to Messrs. Pickens and Osborne; you will, therefore, apply to said gentlemen for regular invoices of all the goods in their possession, for the treaty, distinguishing the means by which they became possessed thereof.

You will also request of them an account of the moneys or goods they may have received of the States of South Carolina and Georgia, in consequence of the resolves of Congress, of the 26th October, 1787, and August 14, 1788.

As the said Messrs. Pickens and Osborne will most probably be at the proposed place of treaty, with the expectation of conducting the same, you will deliver them the letter containing the reasons of Government for appointing new commissioners.

Were there any services at the treaty, in which you could employ them, it might be proper to do so.

You will endeavor to avail yourselves, as far as may be, of any arrangements which may have been taken by Georgia, for the supplies of provisions during the holding of the treaty, or for furnishing the means of transportation, for which the said State will have credit on

the before recited requisitions of Congress, of the 26th October, 1787, and the 14th of August, 1788.

You will please to observe, that the whole sum that can be constitutionally expended for the proposed treaty with the Creeks, shall not exceed the sum of twenty thousand dollars—the goods and money which have been delivered to you, and the expenses which will arise, by the removal and return of the troops, and your own pay, will amount to ——.

You will, therefore, see the necessity of economizing your means, and that the same cannot be extended.

It is, however, to be observed, that the sums you shall think proper to stipulate to the Creeks, for the cessions of the lands between the Ogechee and Oconee, is to be considered additional to the said twenty thousand dollars.

You will, from time to time, communicate your progress to the Secretary of the War Department, and receive such further directions from him, as the case may require.

The company of artillery, commanded by Captain Burbeck, will accompany you to the place of treaty, and be under your orders. As soon as the treaty shall be finished, you will take the proper measures for the return of the company to this place, as the time of service will soon expire. The company will receive one month and a half's pay, and be furnished with three months' rations, which you will cause to be transported as the service may require.

These instructions will be the governing principles of your conduct, and they are to be regarded as secret.

But many circumstances may arise, which may render some degree of modification necessary. In every event, however, you will please to remember, that the Government of the United States are determined, that their administration of Indian affairs shall be directed entirely by the great principles of justice and humanity.

As soon as you have concluded your negotiations with the Creeks, and forwarded your messages as herein directed, you will return to this place, and make a full report of all your transactions to the Secretary of the War Department.

Given under my hand, at the city of New York, this 29th of August, 1789.

GEO. WASHINGTON.

By command of the President of the United States:

H. KNOX.

Act of April 26, 1802

Laws of the United States—Relating to the Public Lands 473 (1828)

No. 95. An act in addition to an act, entitled "An act in addition to an act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen." †

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passing of this act, and until the first day of January next, it shall be lawful for the holders or proprietors of warrants heretofore granted in consideration of military services, or Register's certificates, of fifty acres or more, granted, or hereafter to be granted, agreeably to the third section of an act, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the *Society of the United Brethren for propagating the Gospel among the Heathen*," approved the first day of March, one thousand eight hundred, to register and locate the same in the same manner, and under the same restrictions, as might have been done before the first day of January last: *Provided*, That persons holding Register's certificates for a less quantity than one hundred acres, may locate the same on such parts of fractional townships as shall, for that purpose, be divided by the Secretary of the Treasury into lots of fifty acres each. (Emphasis added.)

SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of War to receive claims to lands for military services, and claims for duplicates of warrants, issued from his Office, or from the Land Office of Virginia, or of plats and certificates of surveys founded on such warrants, suggested to have been lost or destroyed, until the first day of January next, and no

longer; and, immediately thereafter, to report the same to Congress, designating the numbers of claims of each description, with his opinion thereon.

Act of March 3, 1803

Laws of the United States—Relating to the Public Land 491 (1828)

No. 103. An act to revive and continue in force "An act in addition to an act, entitled 'An act in addition to an act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen;"† and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of "An act in addition to an act, entitled 'An act in addition to an act regulating the grants of land appropriated for military services, and for the Society of the United Brethren, for propagating the Gospel among the Heathen," approved the twenty-sixth of April, eighteen hundred and two, be, and the same is hereby, revived, and continued in force until the first day of April next.‡

SEC. 2. *And be it further enacted*, That the Secretary of War be, and he hereby is, authorized, from and after the first day of April next, to issue warrants for military bounty lands to the two hundred and fifty-four persons who have exhibited their claims, and produced satisfactory evidence to substantiate the same to the Secretary of War, in pursuance of the act of the twenty-sixth of April, eighteen hundred and two, entitled "An act in addition to an act, entitled 'An act in addition to an act regulating the grants of land appropriated for military services, and *for the Society of the United Brethren for propagating the Gospel among the Heathen.*" (Emphasis added.)

SEC. 3. *And be it further enacted*, That the holders, or proprietors, of the land warrants issued by virtue of the preceding section, shall and may locate their respective warrants, only on any unlocated parts of the fifty quarter

townships and the fractional quarter townships which had been reserved for original holders, by virtue of the fifth section of an act, entitled "An act in addition to an act, entitled an act regulating the grants of land appropriated for military services, and *for the Society of the United Brethren for propagating the Gospel among the Heathen.*" § (Emphasis added.)

SEC. 4. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized to issue land warrants to Major General Lafayette, for eleven thousand five hundred twenty acres, which shall, at his option, be located, surveyed, and patented, in conformity with the provisions of an act, entitled "An act regulating the grants of land appropriated for military services, and *for the Society of the United Brethren for propagating the Gospel among the Heathen*," * or which may be received, acre for acre, in payment for any of the lands of the United States North of the river Ohio, and above the mouth of Kentucky river. (Emphasis added.)

SEC. 5. *And be it further enacted*, That all the unappropriated lands within the military tract, shall be surveyed into half sections, in the manner directed by the act, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States in the territory Northwest of the Ohio, and above the mouth of Kentucky river,"† and that so much of the said lands as lie West of the eleventh range, within the said tract, shall be attached to, and make a part of, the district of Chilicothe, and be offered for sale at that place, under the same regulations that other lands are within the said district.

SEC. 6. *And be it further enacted*, That the lands within the said eleventh range, and East of it, within the said military tract, and all the lands North of the Ohio Company's purchase, West of the seven first ranges, and East of the district of Chilicothe, shall be offered for sale at Zanesville, under the direction of a Register of the

Land Office, and Receiver of Public Moneys, to be appointed for that purpose, who shall reside at that place, and shall perform the same duties, and be allowed the same emoluments, as are prescribed for, and allowed to, Registers and Receivers of the Land Offices by law.

SEC. 7. *And be it further enacted*, That all persons who have obtained certificates for the right of pre-emption to lands, by virtue of two acts, the one entitled "An act giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the territory of the United States Northwest of the Ohio,"‡ and the other "An act to extend and continue the provisions" of the said act, passed on the first day of May, eighteen hundred and two § and who have not made the first payment therefor, before the first day of January last, shall be allowed until the tenth day of April next to complete the same; and that all persons who have become purchasers of land by virtue of the aforesaid acts, be, and they are hereby, allowed until the first day of January, eighteen hundred and five, to make the second instalment; until the first day of January, eighteen hundred and six, to make their third instalment; and until the first day of January, eighteen hundred and seven, to make their fourth and last instalment; any thing in the acts aforesaid to the contrary notwithstanding.

SEC. 8. *And be it further enacted*, That, where any warrants, granted by the State of Virginia for military services, have been surveyed on the Northwest side of the river Ohio, between the Sciota and the Little Miami rivers, and the said warrants, or the plats and certificates of survey made thereon, have been lost or destroyed, the persons entitled to the said land may obtain a patent therefor, by producing a certified duplicate of the warrant from the Land Office of Virginia, or of the plat and certificate of survey from the office of the Surveyor in which the same was recorded, and giving satisfactory

proof to the Secretary of War, by his affidavit, or otherwise, of the loss or destruction of said warrant, or plat and certificate of survey.

Enabling Act for Alabama, March 2, 1819

F. Thorpe, 1 *Constitution, Charters, and Other Organic Laws* 92 (1909)

ENABLING ACT FOR ALABAMA—1819

[FIFTEENTH CONGRESS, SECOND SESSION.]

An Act to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Alabama be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they may deem proper; and that the said Territory, when formed into a State, shall be admitted into the Union, upon the same footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning at the point where the thirty-first degree of north latitude intersects the Perdido River; thence, east, to the western boundary-line of the State of Georgia; thence, along said line, to the southern boundary-line of the State of Tennessee; thence, west, along said boundary-line, to the Tennessee River; thence, up the same, to the mouth of Bear Creek; thence, by a direct line, to the northwest corner of Washington County; thence, due south, to the Gulf of Mexico; thence, eastwardly, including all islands within six leagues of the shore, to the Perdido River; and thence, up the same to the beginning.

SEC. 3. *And be it further enacted*, That it shall be the duty of the surveyor of the lands of the United

States south of the State of Tennessee, and the surveyor of the public lands in the Alabama Territory, to run and cut out the line of demarcation, between the State of Mississippi and the State to be formed of the Alabama Territory; and if it should appear to said surveyors that so much of said line designated in the preceding section, running due south, from the northwest corner of Washington County to the Gulf of Mexico, will encroach on the counties of Wayne, Greene, or Jackson, in said State of Mississippi, then the same shall be so altered as to run in a direct line from the northwest corner of Washington County to a point on the Gulf of Mexico, ten miles east of the mouth of the river Pascagola.

SEC. 4. *And be it further enacted*, That all white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory three months previous to the day of election, and all persons having, in other respects, the legal qualifications to vote for representatives in the general assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a constitution, who shall be appointed among the several counties as follows:

From the county of Madison, eight representatives.
From the county of Monroe, four representatives.
From the county of Blount, three representatives.
From the county of Limestone, three representatives.
From the county of Shelby, two representatives.
From the county of Montgomery, two representatives.
From the county of Washington, two representatives.
From the county of Tuscaloosa, two representatives.
From the county of Lawrence, two representatives.
From the county of Franklin, two representatives.
From the county of Cotaco, two representatives.
From the county of Clark, two representatives.
From the county of Baldwin, one representative.
From the county of Cawhauba, one representative.

From the county of Conecah, one representative.
From the county of Dallas, one representative.
From the county of Marengo, one representative.
From the county of Marion, one representative.
From the county of Mobile, one representative.
From the county of Lauderdale, one representative.
From the county of Saint Clair, one representative.
From the county of Autauga, one representative.

And the election for the representatives aforesaid shall be holden on the first Monday and Tuesday in May next, throughout the several counties in the said Territory, and shall be conducted in the same manner, and under the same regulations, as prescribed by the laws of the said Territory regulating elections therein for the members of the House of Representatives.

SEC. 5. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet, at the town of Huntsville, on the first Monday in July next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be, or be not, expedient, at that time, to form a constitution and State government for the people within the said Territory; And if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government: *Provided*, That the same, when formed shall be republican, and not repugunant to the principles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the people and States of the territory northwest of the river Ohio, so far as the same has been extended to the said territory, by the articles of agreement between the United States and the State of Georgia, or of the Constitution of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Alabama, when

formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States.

First. That the section numbered sixteen in every township, and when such section has been sold, granted, or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such townships for the use of schools.

Second. That all salt-springs within the said Territory, and the lands reserved for the use of the same, together with such other lands as may, by the President of the United States, be deemed necessary and proper for working the said salt-springs, not exceeding in the whole the quantity contained in thirty-six entire sections, shall be granted to the said State, for the use of the people of the said State, the same to be used, under such terms, conditions, and regulations, as the legislature of the said State shall direct: *Provided*, The said legislature shall never sell nor lease the same for a longer term than ten years at any one time.

Third. That five per cent, of the proceeds of the lands lying within the said Territory, and which shall be sold by Congress, from and after the first day of September, in the year one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for making public roads, canals, and inproving the navigation of rivers, of which three-fifths shall be applied to those objects within the said State, under the direction of the legislature thereof, and two-fifths to the making of a road or roads leading to the said State, under the direction of Congress.

Fourth. That thirty-six sections, or one entire township, to be designated by the Secretary of the Treasury, under the direction of the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learn-

ing, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature. And the Secretary of the Treasury, under the direction as aforesaid, may reserve the seventy-two sections, or two townships, hereby set apart for the support of a seminary of learning, in small tracts: *Provided*, That no tract shall consist of less than two sections: *And provided always*, That the said convention shall provide, by an ordinance irrevocable without the consent of the United States, that the people inhabitating the said Territory, do agree and declare that they forever disclaim all right and title to the waste or unappropriated lands lying within the said Territory; and that the same shall be and remain at the sole and entire disposition of the United States; and, moreover, that each and every tract of land sold by the United States, after the first day of September, in the year one thousand eight hundred and nineteen, shall be and remain exempt from any tax laid by the order, or under the authority, of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years, from and after the respective days of the sales thereof; and that the lands belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no tax shall be imposed on lands, the property of the United States; and that all navigable waters within the said State shall forever remain public highways, free to the citizens of said State and of the United States, without any tax, duty, impost, or toll, therefor, imposed by the said State.

SEC. 7. *And be it further enacted*, That, in lieu of a section of land, provided to be reserved for the seat of government of the said Territory, by an act, entitled "An act respecting the surveying and sale of the public lands in the Alabama Territory," there be granted to the said State, for the seat of the government thereof, a

tract of land containing sixteen hundred and twenty acres, and consisting of sundry fractions and a quarter-section, in sections thirty-one and thirty-two, in township sixteen, and range ten, and in sections five and six, in township fifteen, and range ten, and in sections twenty-nine and thirty, in the same township and range, lying on both sides of the Alabama and Cahawba Rivers, and including the mouth of the river Cahawba, and which heretofore has been reserved from the public sale, by order of the President of the United States.

SEC. 8. *And be it further enacted*, That, until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 9. *And be it further enacted*, That, in case the said convention shall form a constitution and State government for the people of the Territory of Alabama, the said convention, as soon thereafter as may be, shall cause a true and attested copy of such constitution or frame of government as shall be formed or provided, to be transmitted to Congress, for its application.

Approved, March 2, 1819.

RESOLUTION FOR THE ADMISSION OF ALABAMA—1819

[SIXTEENTH CONGRESS, FIRST SESSION]

Resolution declaring the admission of the State of Alabama into the Union.

Whereas, in pursuance of an act of Congress, passed on the second day of March, one thousand eight hundred and nineteen, entitled "An act to enable the people of the Alabama territory to form a constiution and state government, and for the admission of such state into the Union on an equal footing with the original States," the people of the said territory did, on the second day of

August, in the present year, by a convention called for that purpose, form for themselves a constitution and state government, which constitution and state government, so formed, is republican, and in conformity to the principles of the articles of compact between the original states and the people and states in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, so far as the same have been extended to the said territory by the articles of agreement between the United States and the state of Georgia:—

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the State of Alabama shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original states, in all respects whatever.

Approved, December 14, 1819.

APPENDIX B

Joseph Story, 3 *Commentaries on the Constitution* (1833) (1858 ed.)

§ 1869. Let us now enter upon the consideration of the amendments, which, it will be found, principally regard subjects properly belonging to a bill or rights.

§ 1870. The first is, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition government for a redress of grievances."

§ 1871. And first, the prohibition of any establishment of religion, and the freedom of religious opinion and worship.

How far any government has a right to interfere in matters touching religion, has been a subject much discussed by writers upon public and political law. The right and the duty of the interference of government in matters of religion, have been maintained by many distinguished authors, as well those who were the warmest advocates of free government, as those who were attached to governments of a more arbitrary character.[4] Indeed, the right of a society or government to interfere in matters of religion will hardly be contested by any persons who believe that piety, religion, and morality are intimately connected with the well-being of the state, and indispensable to the administration of civil justice. The promulgation of the great doctrines of religion, the being,

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[4] See Grotins, B. 2, ch. 20, § 44 to 51; Vattel, B. 1, ch. 12, § 125, 126; Hooker's Ecclesiastical Polity, B. 5, § 1 to 10; Bynkershock, 2 P. J. Lib. 2, ch. 18; Woodesou's Elem. Lect. 3, p. 49; Burlemaqui, Pt. 3, ch. 3, p. 171, and Montesq. B. 24, ch. 1 to ch. 8, ch. 14 to ch. 16, B. 25, ch. 1, 2, 9, 10, 11, 12.

and attributes, and providence of one Almighty God; the responsibility to him for all our actions, founded upon moral freedom and accountability; a future state of rewards and punishments; the cultivation of all the personal, social, and benevolent virtues;—these never can be a matter of indifference in any well ordered community.[1] It is, indeed difficult to conceive how any civilized society can well exist without them. And at all events, it is impossible for those who believe in the truth of Christianity, as a divine revelation, to doubt, that it is the especial duty of government to foster and encourage it among all the citizens and subjects. This is a point wholly distinct from that of the right of private judgment in matters of religion, and of the freedom of public worship according to the dictates of one's conscience.

§ 1872. The real difficulty lies in ascertaining the limits to which government may rightfully go in fostering and encouraging religion. Three cases may easily be supposed. One where a government affords aid to a particular religion, leaving all persons free to adopt any other; another, where it creates an ecclesiastical establishment for the propagation of the doctrines of a particular sect of that religion, leaving a like freedom to all others; and a third, where it creates such an establishment, and excludes all persons not belonging to it, either wholly or in part, from any participation in the public honors, trusts, emoluments, privileges, and immunities of the state. For instance, a government may simply declare, that the Christian religion shall be the religion of the state, and shall be aided and encouraged in all the varieties of sects belonging to it; or it may declare that the Catholic or Protestant religion shall be the religion of the state, leaving every man to the free enjoyment of his own religious opinions; or it may establish the doctrines of a particular sect, as of Episcopalians, as the religion of the state, with a like freedom; or it may establish the doc-

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[1] See Burlemaqui, Pt. 3, ch. 3, p. 171, &c.; 4 Black. Comm. 43.

trines of a particular sect, as exclusively the religion of the state, tolerating others to a limited extent, or excluding all not belonging to it, from all public hoonrs, trusts, emoluments, privileges, and immunities.

§ 1873. Now there will probably be found few persons in this or any other Christian country, who would deliberately contend that it was unreasonable, or unjust to foster and encourage the Christian religion generally, as a matter of sound policy, as well as of revealed truth. In fact, every American colony, from its foundation down to the revolution, with the exception of Rhode Island, (if, indeed, that state be an exception,) did openly by the whole course of its laws and institutions, support and sustain in some form the Christian religion; and almost invariably gave a peculiar sanction to some of its fundamental doctrines. And this has continued to be the case in some of the states down to the present period, without the slightest suspicion that it was against the principles of public law or republican liberty.[1] Indeed, in a republic, there would seem to be a peculiar propriety in viewing the Christian religion as the great basis, on which it must rest for its support and permanence, if it be what it has ever been deemed by its truest friends to be, the religion of liberty. Montesquieu has remarked, that the Christian religion is a stranger to mere despotic power. The mildness so frequently recommended in the gospel is incompatible with the despotic rage, with which a prince punishes his subjects, and exercises himself in cruelty.[2] He has gone even further, and affirmed that the protestant religion is far more congenial with the true spirit of political freedom than the Catholic. "When," says he, "the Christian religion, two centuries ago, became unhappily divided into Catholic and Protestant, the

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[1] 2 Kent's Comm. Lect. 34, p. 35 to 37; Rawle on Const. ch. 10, p. 121, 122.

[2] Montesq. Spirit of Laws, B. 24, ch. 3.

people of the north embraced the Protestant, and those of the south still adhere to the Catholic. The reason is plain. The people of the north have, and will ever have a spirit of liberty and independence, which the people of the south have not. And, therefore, a religion which has no visible head, is more agreeable to the independency of climate, than that which has one." [3] Without stopping to inquire whether this remark be well founded, it is certainly true, that the parent country has acted upon it with a severe and vigilant zeal; and in most of the colonies the same rigid jealously has been maintained almost down to our own times. Massachusetts, while she has promulgated in her BILL OF RIGHTS the importance and necessity of the public support of religion, and the worship of God, has authorized the legislature to require it only for Protestantism. The language of that bill of rights is remarkable for its pointed affirmation of the duty of government to support Christianity and the reasons for it. "As," says the third article, "the happiness of a people, and the good order and preservation of civil government essentially depend upon piety, religion, and morality, and as these cannot be generally diffused through the community, but by the institution of the public worship of God, and of public instructions in piety, religion, and morality; therefore, to promote their happiness and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize, and require, and the legislature shall from time to time authorize and require the several towns, parishes, &c. &c. to make suitable provision at their own expense for the institution of the public worship of God, and for the support and maintenance of public *protestant* teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily." Afterwards there follow provisions, prohibiting any superiority of one

[3] Montesq. Spirit of Laws, B. 24, ch. 5.

sect over another, and securing to all citizens the free exercise of religion.

§ 1874. Probably at the time of the adoption of the constitution, and of the amendment to it, now under consideration, the general, if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state, so far as was not incompatible with the private rights of conscience, and the freedom of religious worship. An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation if not universal indignation.[1]

§ 1875. It yet remains a problem to be solved in human affairs, whether any free government can be permanent, where the public worship of God, and the support of religion, constitute no part of the policy or duty of the state in any assignable shape. The future experience of Christendom, and chiefly of the American states, must settle this problem, as yet new in the history of the world, abundant as it has been in the experiments in the theory of government.

§ 1876. But the duty of supporting religion, and especially the Christian religion, is very different from the right to force the consciences of other men, or to punish them for worshipping God in the manner which they believe their accountability to him requires. It has been truly said, that "religion, or the duty we owe to our Creator, and the manner of discharging it, can be dictated only by reason and conviction, not by force or violence."[1] Mr. Locke himself, who did not doubt the right of government to interfere in matters of religion, and especially to encourage Christianity, at the same time has expressed his opinion of the right of private

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[1] See 2 Lloyd's Deb. 195, 196.

[1] Virginia Bill of Rights, 1 Tuck. Black. Comm. App. 296; 2 Tuck. Black. Comm. App. note G. p. 10, 11.

judgment and liberty of conscience, in a manner becoming his character, as a sincere friend of civil and religious liberty. "No man, or society of men," says he, "have any authority to impose their opinions or interpretations on any other, the meanest Christian; since, in matters of religion, every man must know, and believe, and give an account for himself."[2] The rights of conscience are, indeed, beyond the just reach of any human power. They are given by God, and cannot be encroached upon by human authority, without a criminal disobedience of the precepts of natural, as well as of revealed religion.

§ 1877. The real object of the amendment was, not to countenance, much less to advance Mahometanism, or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment, which should give to a hierarchy the exclusive patronage of the national government. It thus cut off the means of religious persecution, (the vice and pest of former ages,) and of the subversion of the rights of conscience in matters of religion, which had been trampled upon almost from the days of the Apostles to the present age.[3] The history of the parent country had afforded the most solemn warnings and melancholy instructions on this head;[4] and even New England, the land of the persecuted puritans, as well as other colonies, where the Church of England had maintained its superiority, would furnish out a chapter, as full of the darkest bigotry and intolerance, as any, which could be found to disgrace the pages of foreign annals.[1] Apostasy, heresy, and nonconformity had been standard crimes for public appeals,

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[2] Lord King's Life of Locke, p. 373.

[3] 2 Lloyd's Debates, 195.

[4] Black. Comm. 41 to 59.

[1] *Ante*, vol. i. § 53, 72, 74.

to kindle the flames of persecution, and apologize for the most atrocious triumphs over innocence and virtue.[2]

§ 1878. Mr. Justice Blackstone, after having spoken with a manly freedom of the abuses in the Romish church respecting heresy; and, that Christianity had been deformed by the demon of persecution upon the continent, and that the island of Great Britain had not been *directly* free from the scourge,[3] defends the final enactments against non-conformity in England, in the following set phrases, to which, without any material change, might be justly applied his own sarcastic remarks upon the conduct of the Roman ecclesiastics in punishing heresy.[4] "For non-conformity to the worship of the church," (says he,) "there is much more to be pleaded than for the former, (that is, reviling the ordinances of the church,) being a matter of private conscience, to the

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[2] See 4 Black. Comm. 43 to 59.

[3] *"Entirely"!* Should he not have said, *never* free from the scourge, as more conformable to historical truth?

[4] 4 Black. Comm. 45, 46. His words are: It is true, that the sanctimonious hypocrisy of the Canonists went, at first, no further than enjoining penance, excommunication, and ecclesiastical deprivation for heresy, though afterwards they proceeded to imprisonment by the ordinary, and confiscation of goods *in pios usus*. But in the mean time they had prevailed upon the weakness of bigoted princes to make the civil power subservient to their purposes, by making heresy not only a temporal, but even a capital offence; the Romish Ecclesiastics determining, without appeal, whatever they pleased, to be heresy, and shifting off to the secular arm the odium and the drudgery of executions, with which they themselves were too tender and delicate to intermeddle. Nay, pretended to intercede, and pray in behalf of the convicted heretic, *ut citra mortis periculum sententia circum eum moderatur*, well knowing at the same time that they were delivering the unhappy victim to certain death." 4 Black. Comm. 45, 46. Yet the learned author, in the same breath, could calmly vindicate the outrageous oppressions of the Church of England upon Catholics and Dissenters with the unsuspecting satisfaction of a bigot.

scruples of which our *present* laws have shown a very just and Christian indulgence. For undoubtedly all persecution and oppression of weak consciences, on the score of religious persuasions, are highly unjustifiable upon every principle of natural reason, civil liberty, or sound religion. But care must be taken not to carry this indulgence into such extremes, as may endanger the national church. There is always a difference to be made between toleration and establishment."[1] Let it be remembered, that at the very moment, when the learned commentator was penning these cold remarks, the laws of England merely tolerated protestant dissenters in their public worship upon certain conditions, at once irritating and degrading; that the test and corporation acts excluded them from public and corporate offices, both of trust and profit; that the learned commentator avows, that the object of the test and corporation acts was to exclude them from office, in common with Turks, Jews, heretics, papists, and other sectaries;[2] that to deny the Trinity, however conscientiously disbelieved, was a public offense, punishable by fine and imprisonment; and that, in the rear of all these disabilities and grievances, came the long list of acts against papists, by which they were reduced to a state of political and religious slavery, and cut off from some of the dearest privileges of mankind.[3]

§ 1879. It was under a solemn consciousness of the dangers from ecclesiastical ambition, the bigotry of spiritual pride, and the intolerance of sects, thus exemplified

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[1] 4 Black. Comm. 51, 52.

[2] 1 Black. Comm. 58.

[3] 1 Black. Comm. 51 to 59. Mr. Tucker, in his Commentaries on Blackstone, has treated the whole subject in a manner of most marked contrast to that of Mr. J. Blackstone. His ardor is as strong, as the coolness of his adversary is humiliating, on the subject of religious liberty. 2 Tucker's Black. Comm. App. Note G. p. 3, &c. See also 4 Jefferson's Corresp. 103, 104; Jefferson's Notes on Virginia, 264 to 270; 1 Tuck. Black. Comm. App. 296.

in our domestic, as well as in foreign annals, that it was deemed advisable to exclude from the national government all power to act upon the subject.[4] The situation, too, of the different states equally proclaimed the policy, as well as the necessity of such an exclusion. In some of the states, episcopalians constituted the predominant sect; in others, presbyterians; in others, congregationalists; in others, quakers; and in others again, there was a close numerical rivalry among contending sects. It was impossible, that there should not arise perpetual strife and perpetual jealously on the subject of eccelesiastical ascendency, if the national government were left free to create a religious establishment. The only security was in extirpating the power. But this alone would have been an imperfect security, if it had not been followed up by a declaration of the right of the free exercise of religion, and a prohibition (as we have seen) of all religious tests. Thus, the whole power over the subject of religion is left exclusively to the state governments, to be acted upon according to their own sense of justice, and the state constitutions; and the Catholic and the Protestant, the Calvinist and the Arminian, the Jew and the Infidel, may sit down at the common table of the national councils, without any inquisition into their faith, or mode of worship.[1]

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[4] 2 Lloyd's Debates, 195, 196, 197. "The sectarian spirit," said the late Dr. Currie, "is uniformly selfish, proud, and unfeeling." Edinburgh Review, April, 1832, p. 125.

[1] See 2 Kent's Comm. Lect. 24 (2d edition, p. 35 to 37); Rawle on Const. ch. 10, p. 121, 122; 2 Lloyd's Deb. 195. See also vol. i. § 622.